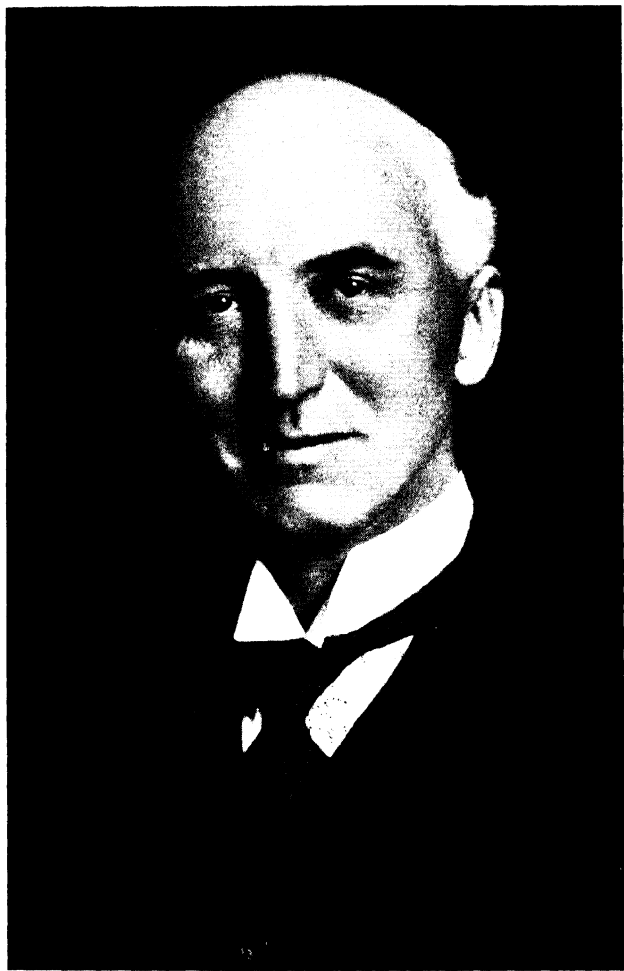


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John Simon

COMMENTS AND CRITICISMS

BY THE RIGHT HON.
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FOREWORD

My friend and secretary, Mr. Rowland Evans, has brought together these *disjecta membra* in the hope that some passages in these speeches and papers may be worth perusal. At any rate, they cover a wide range of interests and occasions.

J. S.

July, 1930.

EDITOR'S NOTE

The Editor is responsible
for the introductory notes
and foot-notes

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I

THE TRADE DISPUTES BILL, 1906

[The following maiden speech was delivered in the House of Commons on the Third Reading of the Trade Disputes Bill, on November 9, 1906. The speaker had been first returned to Parliament as Liberal Member for Walthamstow at the preceding General Election. Mr. Balfour, who closed the debate as Leader of the Conservative Party, advised his Party not to vote against the Third Reading, and took occasion to say that the speech, reproduced below, "really summed up the case for the Bill, and employed arguments which, so far as they went, were not, in his opinion, susceptible of effective answer."]

MR. SIMON (Essex, Walthamstow): Mr. Speaker—Two things emerge from the speech which we have just heard from the hon. Member for the City of London (Sir F. Banbury). The first is that this Bill is, in his opinion, going to complete the destruction of British trade, and especially to do irretrievable damage to the interests of the working classes. And the second is that it is not quite certain whether the hon. Baronet and his Party are going to vote against the Bill.

SIR FREDERICK BANBURY: I am sure that

the hon. Member does not wish to misrepresent me. I said I would vote against the Bill.¹ I am not the Leader of the Party, and I do not know what they are going to do.

MR. SIMON : I am sorry if I have not correctly understood what the hon. Gentleman intended to say. Time will make clear his doubts on that matter. But a point of greater importance which arises out of the speech of the hon. Baronet is this : how far are the hon. Gentlemen opposite justified in denouncing the situation which this Bill would create as one of grave injustice and inequality for which they themselves would never accept any responsibility ? I submit that, whatever else is doubtful about the Bill, one thing is clear, and that is that it is an attempt—an honest and generous attempt, as I believe—to get back to a position which the public has always understood to have been secured by the existing law to Trade Unions. The hon. Member for the City of London has assured the House that he is not a lawyer, and I myself share with the hon. Member the regret that lawyers should have taken so large a part in these discussions. But a man who is a lawyer and has applied his

¹ Two hours later, when the division was called, no vote was cast against the Bill.

mind to the history of this matter cannot doubt that from the year 1871 down to the Taff Vale decision¹ in 1901—a period of thirty years—although Trade Unions have constantly been the object of criticism and attack, and although they are bodies which employers would have been very glad to assail, yet in no single case, in no single Court, and on no single occasion, did any lawyer ever launch an action against a Trade Union. When the hon. Gentleman opposite asks for proofs that there was a popular notion that Trade Unions were exempt from such claims, I invite him, and invite hon. and learned Members on the opposite side of the House who know the care and precision with which the members of the legal profession give advice in the important matter of litigation, to explain why it is that for thirty years no action has ever been brought against a Trade Union. The explanation is perfectly simple. It is not, of course, that the Taff Vale decision has altered the law. Judges do not alter law; they only interpret it. But the interpretation recently put by the House of Lords on the law is one which changed the whole aspect of affairs. An analogy stands ready to our hand. This is

¹ *Taff Vale Railway Co. v. Amalgamated Society of Railway Servants* (1901) A.C. 426.

not the only recent occasion on which great Courts and great Judges have produced much surprise by their interpretation of some of the legislative efforts of this House. It is wonderful how quickly lawyers can persuade themselves that they have never held opinions which subsequently prove to be erroneous. I look forward to the day when the noble and learned Lord the Member for East Marylebone (Lord Robert Cecil) will get up and assure us that he has always perfectly understood that the Education Act of 1902 did not permit public money to be used for dogmatic education. The surprise created by the judgment in the *West Riding* case¹ is not greater than that created among the vast majority of legally-trained gentlemen when the Taff Vale decision was given.

But there was a much more important question than the question what the opinion of lawyers was on this subject, and that is, what was the opinion of the country, what was the opinion of the public, on this question from 1871 onwards? The hon. Gentleman has referred to the Report of the Commission which investigated this subject, quoting the state-

¹ (1906) 2.K.B. 676. This decision of the Court of Appeal was afterwards reversed by the House of Lords (1907) A.C.29.

ment of the Commissioners that it had been the popular view that Trade Union funds were immune. The important thing for the House to keep in view is not any technical or legal view. We have to ask ourselves what was the popular view—what was the view upon the faith of which Trade Unions have grown up—and if it is beyond dispute (as it is) that that view was that the funds of Trade Unions were protected, then this Bill is only restoring a position which the country at large had thought Trade Unions already occupied. If that is so, I would point out a very curious anomaly in these debates. It has been not uncommonly asserted by the Tory Party for the past twenty years that it is to the statesmen of that Party that labour and Trade Unions are indebted for their secure position. The right hon. Gentleman the Member for West Birmingham (Mr. J. Chamberlain), whose absence everyone regrets, speaking to his own people in 1900, said: "Just consider for a moment to whom you, the working classes of this country, owe all the legislation which has really made a difference in your condition."

I am not concerned at present to criticise the justice of that claim. The importance and the relevancy of the matter are that the claim

was made on behalf of the Party opposite. When these claims of having effected legislative changes in the interest of labour were advanced on behalf of the Conservative Party, what was the situation to which they referred? Surely it was the situation which was commonly understood to exist before the Taff Vale decision. If that is so, what is to be said of the extravagant denunciation which has now been poured on the Bill by hon. Gentlemen opposite? The Party represented on the opposite benches was responsible for the legislation of this country for a large part of the last generation, and if they were of opinion that the immunity of Trade Union funds was an outrage and an injustice, they have had plenty of time in the past to rectify that injustice. I for one cannot understand how a body of men who claim that the position of Trade Unions—which means the position as it was commonly understood—was due to their own efforts, could consistently attack the present Bill. They all accepted the view which had been exploded on the country by the House of Lords. All this Bill is attempting to do is to recover from the effects of that explosion. Just as I should have expected the present Leader of the Opposition, if he had been in power, to have come and required the House

to make good the mischief that was revealed in the Education Act of 1902 by the *West Riding* decision, so the Liberal Government is entitled to call on every Member desiring to see made good the belief held by the past generation as to the position of organised labour to help to pass into law a Bill that simply restores Trade Union funds to the position they were already thought to enjoy.

II

THE GENERAL STRIKE

*(Delivered in the House of Commons, May 6,
1926)*

[Twenty years after the maiden speech just printed, Sir John Simon intervened in the House of Commons in the middle of the General Strike of May, 1926, with the speech which is reproduced below, and he followed it up as soon as the General Strike was abandoned by an address to his own constituents in Spen Valley, which is the third of the speeches in this volume.

The "General Strike" began at midnight, Monday, May 3, 1926, and terminated on the following Wednesday week, May 12. The idea of "Direct Action" by means of a General Strike had been entertained in certain quarters in the Labour Movement for some years before 1926, but most of the responsible Labour leaders had discouraged it. The occasion for the General Strike of 1926 was the breakdown of negotiations between the Government on the one side and the General Council of the Trade Union Congress on the other, with regard to the dispute in the mining industry. The "1924 Agreement" between the mine-owners and the miners was due to expire on July 31, 1925. A stoppage in the coal industry was regarded as a certainty at the end of July unless a new agreement was reached. The colliery owners and the miners held several conferences in April, May and June, 1925, but failed to agree. On the last day

of July the stoppage was averted by the appointment of a Royal Commission (of which Sir Herbert Samuel was chairman) and by the offer by the Government of a subsidy to the coal industry for nine months. The total of that subsidy amounted to £24,000,000. The Royal Commission presented a unanimous Report on March 10, 1926, and the Prime Minister (Mr. Baldwin) announced that the Government would carry out the recommendations of the Report if both the miners and the owners would agree to accept them. They failed to agree. The subsidy was due to end on April 30. During the week or so prior to this date, negotiations proceeded at top speed, but no settlement was arrived at, with the consequence that on April 30 the coal pits ceased working. At midnight on Friday, April 30, a meeting of the Trade Union Executives was held at the Memorial Hall. On Saturday, May 1, at 9 a.m., the Miners' delegates met at Kingsway Hall. At 12 noon the Miners' Executive were in conference with the General Council of the Trade Union Congress at the Memorial Hall. A State of Emergency was declared by Royal Proclamation. At 2 p.m. the meeting of the General Council of the Trade Union Congress was resumed, and the announcement was made of the decision to call a General Strike for the following Monday at midnight "unless a settlement which the representatives of the Trade Union Congress can recommend the miners to accept is previously reached." The method to be followed was to bring pressure on the Government by calling out the workers in essential industries and services. At 3.30 p.m. there was a meeting of the Trade Union Congress, at which the decision to call a General Strike was endorsed. Among those present on the platform at this meeting were Mr. Ramsay MacDonald, Mr. Arthur Henderson, and Mr. J. H. Thomas. The Prime Minister was notified by the Secretary of the T.U.C. that the Executive Committee of

the T.U.C., including the Miners' Federation, had decided to hand over to the General Council of the T.U.C. the conduct of the dispute, and that all negotiations in connection therewith would be undertaken by the General Council. On Sunday, May 2, fresh negotiations took place between the Government and the General Council of the T.U.C. On Monday, May 3, at 1.5 a.m. the official announcement was made that negotiations had broken down. The General Strike began at midnight. On Wednesday, May 5, the House of Commons discussed the Regulations under the Emergency Powers Act, 1920. The discussion was resumed the following day—Thursday, May 6— and it was in the course of this discussion that Sir John Simon made the speech which is printed below. It was widely regarded as contributing decisively to the collapse of the movement. On Wednesday, May 12, the General Council of the T.U.C. visited Downing Street and informed the Prime Minister that "the General Strike is being terminated to-day."]

MR. SPEAKER,—Although the hour is late, I desire to ask the attention of the House to one aspect of the present situation which I think has received insufficient notice. We have all of us been so much concerned with the gravity of the crisis that one novel feature of it has not, I think, been appreciated as widely as it ought to have been. We speak of the present disaster as a "general strike," and this general cessation of work is regarded by a great many people in the country as though it were merely a variety—no doubt more serious, widespread

and threatening—of the strikes we have usually known. By referring to it as a “general strike,” there has grown up in some quarters a belief that this situation is the same in character as previous strikes, though of course on a vastly greater scale.

If I may suggest an analogy which will appeal to everybody in the House, we speak of this situation as a “general strike” much in the same way as we speak of the last war as the “great war,” because it is something of exceptional gravity and importance and suffering. But I wish to address this consideration to the House. When this disturbance is over, and when Parliament resumes its normal functions, it will be very necessary to appreciate that this so-called general strike is not a strike at all. It is something very different. I am not apportioning blame or praise ; I am merely pointing out a most important fact. A strike, properly understood, is perfectly lawful. The right to strike is the right of workmen in combination, by prearrangement, to give due notice to their employers to terminate their engagements, and to withhold their labour when these notices have expired. That is what the right to strike is. When that happens, as it has sometimes happened—as it has often

happened in the history of this country—neither the workmen nor the Trade Union leaders are breaking any law; and I hold, and I hope that at this time of day most people hold, that it is an essential part of the rights of the British wage-earner that he should have the right to strike, and that it never ought to be taken away from him. I am sure that those who really appreciate the character of British institutions will never wish to take it away from him. I cannot imagine a condition of society in which it might be taken away from him, unless we reach a Socialist State. If that ever happened, as I pointed out in the Debate a year or two ago,¹ nothing is more certain than that the right to strike would be impossible, because, in a completely Socialistic State, the claim to strike would be a claim to mutiny. But in society as we have it, and as it is likely to remain, the right to strike is a very precious one, which everybody who values British institutions should acknowledge and defend.

What I wish, however, to point out to the House, and if my voice can reach outside, I desire to point it out wherever I can, is that the Resolution which was arrived at at the Memorial

¹ See below, page 56: Speech on Socialism, July 16th, 1923.

Hall last week, or, at any rate, the decision of the Council of the Trade Union Executive, to call out everybody, regardless of the contracts which these workmen had made, was not a lawful act at all. Every workman who was bound by a contract to give notice before he left work, and who, in view of that decision, has either chosen of his free will or has felt compelled to come out by leaving his employment without proper notice, has broken the law. He has broken the law just as much as the coal-owners would have broken the law if they had failed to give due notice to terminate the existing engagements of their men, and had attempted to turn them off on the 1st May without any warning. There is no difference whatever, in this matter, between the law as it applies to the workman and the law as it applies to the employer.

As I have said, I am not saying this with the slightest desire to blame or praise, but it would be lamentable if the working classes of this country go on with this business without understanding that they are taking part in a novel and an utterly illegal proceeding. It is this feature of the General Strike that constitutes its novelty. There may have been sporadic cases before, but this time it is part of a system.

We have had serious strikes before, as we all know, but a general strike proclaimed by leaders of organised labour which disregards all contracts of employment is a wholly different matter.

I am speaking not in the least in the language of threat, but purely for the purpose of being plain, but let this be observed. Take the case of the railwaymen. Most of the railway servants of this country serve under contracts which require that a notice should be given on either side. Every railwayman in that position who is now out in disregard of the contract of his employment is himself personally liable to be sued in the County Court for damages. Let me point out another serious thing. Every Trade Union leader who has advised and promoted this course of action is liable in damages to the uttermost farthing of his personal possessions.¹ I am not saying these things

¹ "Some learned commentators have doubted the accuracy of this statement, in view of Section 3 of the Trade Disputes Act, 1906, which provides that 'an act done by a person in contemplation or furtherance of a trade dispute shall not be actionable *on the ground only* that it induces some other person to break a contract of employment.' But if the action is based on any other ground, the section has no application. A general strike, as it seems to me, is an offence against the State and not a trade dispute in the sense of the Statute of 1906 at all." Note by the speaker in "Three Speeches on the General Strike" (Macmillan & Co.).

with the least desire to secure a cheer from one side or a protest from the other, but I feel it to be my duty, so far as I possess any power of exposition and explanation, not to fail, whatever the cost may be, to make this as plain as I can. I am not saying for a moment that action of that sort will be taken ; I know nothing about it. But I point it out, because the fact that it might be taken is the plainest possible proof to any honest citizen that what we are faced with now is something quite different in character from any lawful strike. The fact that these proceedings could be taken against these tens of thousands of decent workmen, and against Trade Union leaders of great authority and position in the House and out of it, shows at any rate what a world of difference there is between a strike as hitherto understood and the general strike which is now proclaimed.

Let me give two illustrations to point the meaning and effect of this. It is a very common thing to find in the rules of a Trade Union—in the course of my professional life I have had to consider those rules on behalf of Trade Unions—a rule to say that if a trade unionist does not obey the orders of the executive of his Union he forfeits his benefits. I am going

to take the opportunity of making a perfectly dogmatic statement, on such responsibility as attaches to my experience and knowledge. Any such rule, laying down that a trade unionist forfeits his benefits if he does not obey the orders of his executive, means, and only means, that he may so forfeit those benefits if the order is lawful. It would be an intolerable position if any man forfeited his benefits because he declined to obey an unlawful order, and I think it cannot be too widely known, because many men are at this time deeply concerned to think that this demand has been made upon them, and that they have to choose between obeying it and losing their benefits. It cannot be too widely and plainly known that there is no Court in this country which would ever construe such a rule as meaning that the man would forfeit his benefits if he is asked to do that which is wrong and illegal.

Let me take a second point. People talk about the Trade Disputes Act. It so happens that it was discussed in the House of Commons in the very first year in which I was a Member. That Act passed its third reading without a dissentient voice. Lord Balfour, then Mr. Balfour, who was leading the Opposition, made a speech which will be found in Volume 164 of the

Parliamentary Debates of 1906.¹ He stated his own view, and invited his followers to adopt and follow his view, that there was no ground upon which it would be proper for the Conservative Party to resist the carriage of that measure.

Not a single Conservative Member of Parliament opposed it, not even Sir Frederick Banbury. What is the significance of that? It is this—that when Parliament passed the Trade Disputes Act and restored to Trade Unions the immunity of their funds which for thirty years had been assumed on all hands to belong to them, the situation with which we are now faced was not contemplated. That Act was carried through this House unanimously, on grounds which Mr. Balfour, as he then was, admitted to be grounds of argument that could not be resisted, that argument being that workmen had the right to combine, and had a right to strike, and that they are breaking no law, they are inflicting no wrong if they do so, and on that assumption it was a reasonable thing that funds which they had gathered and organised, largely for the purpose of benefit and relief, should not be exposed to the hazards

¹ November 9, 1906. See also the first speech in this volume.

of the Courts by the mere accidental, unintended lapse, perhaps of a subordinate. I only have to state that to point out the distinction. I venture to say that it is quite certain that what Parliament had in mind when it spoke of a "trade dispute"—I am not discussing the legal technicalities ; I am talking about the substance of the thing—what Parliament had in mind in 1906 when it spoke of a "trade dispute" and guaranteed immunity for Trade Union funds, was a strike of a lawful character.

I apologise for keeping the House at this hour. I have said this because I am deeply interested in the protection, in the development and in the securing of Trade Union rights ; I firmly believe that the free, fair use by organised labour of all its proper powers of combination is essential to the fair working of modern industry. I cannot conceal from anyone who is good enough to pay the smallest attention to my views that this proclamation of a general strike, from the point of view of the future of Trade Unionism, is *a tragic blunder*. What is the first thing it has done ? At a blow, it has deprived the miners of this country—decent men, faced with a dreadful difficulty, in which they are entitled to receive, and did receive, the widespread sympathy of ordinary

citizens—of a great deal of the sympathy that they thoroughly deserve. It has thrown the claim, the appeal, the case which they had, into the background, because we are faced with a perfectly new and most dangerous attack upon the community itself. It has put in jeopardy rights of organised labour which for my part I want to do my utmost to protect and defend. The day will come when this struggle is ended in the only way in which it can be ended, when opinion—irritated, resentful, suffering opinion—will be proclaiming that we ought to make an immense invasion and reduction of the legitimate rights of organised labour ; and the people who are responsible for creating that situation are the very people whose duty it was at all costs to have told organised labour in this country that a general strike was a very different thing from an ordinary trade dispute as contemplated by Parliament.

I heard my honourable friend, the Member for Dumbarton Burghs (Mr. Kirkwood), this afternoon in a most powerful, and eloquent though perhaps somewhat discursive, speech, make a quotation from a famous passage in a play of Shakespeare. An hon. gentleman below me thought it came from the poet Burns.

That was because he mistook the Doric accent in which the passage was declaimed for the well of English undefiled from which the orator drew his inspiration. It was the famous speech of Isabella in "Measure For Measure" about "Man, proud man, drest in a little brief authority." I wonder whether the hon. Member for Dumbarton remembers the lines which immediately precede the passage he quoted. They are very apposite to this situation. They convey a warning which should be heard. Immediately before Isabella deplores the conduct that "makes the angels weep," she exclaims :

" O ! it is excellent
To have a giant's strength, but it is tyrannous
To use it like a giant."

The real question here, which all of us who are honestly sympathetic with British labour are bound in good faith to put to all who control it, is this : Do you not realise that what you are doing with your immense organised power is this—you are abusing the power which the community gave you, and unless you are careful there may be a terrible reaction ?

It is the duty of every Liberal, of every fair-minded man, to remember that when that reaction comes we must protect and secure and

preserve the legitimate rights of organised labour.

I saw in the issue of the *British Gazette*¹ this morning a telegram from Rome which announces that the Italian people, living under the dispensation which we know, are watching events in this country, and this view is attributed to them—that these events are “accepted in Italy as a proof that the old Parliamentary regime has passed in the march of modern historical conditions.” I think that is a mistake. I think it will appear that at any rate in this country the old Parliamentary regime has not passed, for it is Parliament which will settle this business in the end.

It is with no desire to utter threats or re-

¹ As the General Strike practically stopped the publication of all established newspapers, the Government published, through His Majesty's Stationery Office, a daily organ of its own, called *The British Gazette*, which was edited by Mr. Winston Churchill. There were eight issues, from Wednesday, May 5 to Thursday, May 13 (excluding Sunday, May 9). It reached a circulation of 2,209,000, and was sold at a penny. The General Council of the Trade Union Congress also published a Bulletin, entitled *The British Worker*, of which there were eleven issues, from Wednesday, May 5 to Monday, May 17 (excluding Friday and Sunday, May 14 and 16). This also was sold at a penny. *The Times*, however, apart from Wednesday, May 5 (when it appeared as a single sheet, size 12" by 8", in typewriting type), was able to be published daily throughout the strike, with four pages of its usual size. The daily Official Report of Parliamentary proceedings could not be printed during the strike; consequently they were not published till the end of May.

proaches, or any want of sympathy with underpaid wage-earners, but because I have the deepest conviction that it is the duty of Liberals like myself to speak like this, that I beg those who have authority in the ranks of organised labour to-day to realise that they are putting in jeopardy the most sacred possession of the wage-earners of this land, and that they are making it more difficult to preserve in the future those rights to which labour is legitimately entitled. Negotiations must be resumed : who would not wish them to be promoted and to succeed ? But, whatever the cause or the excuse, those who have called the general strike have this responsibility—that they have committed hundreds of thousands of decent labouring men to a crusade which must end in failure, and which is in danger of setting back the useful peaceful progress of the working classes of this country, it may be for a generation.

III

THE GENERAL STRIKE

(Delivered in Cleckheaton Town Hall, May 20, 1926)

As soon as ever the General Strike was over, and means of transport were once more available, I resolved to travel North at the first possible opportunity, and to make my next public speech on the industrial crisis, through which we are passing, here in the Spenn Valley. A Member of Parliament does not go to the House of Commons as a mere delegate to say what he thinks his constituents will like. He is authorised by the electors to go there to speak his own mind, and to contribute what he can in the national interest. I have tried to do so. But while that is the first and overriding duty of every Member of Parliament, he is also under a special obligation to present himself, as I am doing now from this platform, to his own constituents, and to explain to them, as I am going to do to-night, with candour and in detail, the reasons which have led him to

take his course of public action. I rejoice all the more to be here because, owing to a circumstance which I am sure every trade unionist regrets—owing to the lamentable mistake of those who called this General Strike in deciding to suppress the news and to prevent the normal working of the Press—owing to this shocking mistake, misunderstandings were bound to arise. But if there have been misunderstandings, now is the time to remove them. There are always some people who like fishing in troubled waters. But a Yorkshire audience like this will disregard, as I disregard, anyone who tries to make personal or private capital out of what was the gravest national emergency that has ever faced this country since a certain day in August twelve years ago. My concern is not with those people; my concern is with my constituents here, with the decent, single-minded, self-respecting wage-earners in this area, whether they agree with me or not—and sometimes many of them have not agreed with me. But they have been accustomed to look to me to use towards them plain and respectful language and show them fair treatment in argument. I am going to do so to-night, and I am going to do it with the more confidence because if they will consider the history of their own

country, and the development of workmen's rights in this country, they will know that it has been very largely due to Liberals that those rights have been secured, and that Liberals have voted for and defended the legitimate rights of organised labour all along.

Now to-night we are free to take a rather wider view of recent events than was possible in the actual crisis of the General Strike. If a house is on fire it is no good discussing whether somebody did not put a petrol tin too near the kitchen stove. There is only one thing to do while a house is on fire, and that is to put it out. But the General Strike has been called off, and a fair view of recent events requires us to go a little further back. Let me begin at the beginning and say, as I have said here in the Spen Valley before, that I think the handling of the coal dispute by the Government has been clumsy and ineffective throughout. His Majesty's Ministers have pursued a course which has been both inconsistent and dilatory ; it has been inconsistent because they seem never to have known their own minds, and to have contradicted themselves at various stages ; it has been dilatory because it was only in a very late moment that they really grasped the problem which thoughtful men ought to have

appreciated long before. Indeed, the Cabinet has been so unfortunate as to produce the sort of situation, the sort of atmosphere, in which the poison and infection of a general strike might very naturally spread. What did they do? They began last July by announcing at six o'clock one evening that in no circumstances would they grant a subsidy to the coal trade, and they followed that up four hours later by granting a subsidy in a most nebulous form. I am not surprised that some people began to suspect that the Government would surrender to pressure. Now, whatever may be said by way of justification for the subsidy—the taking of the general revenues of the State raised by taxing the poor as well as the rich—whatever may be said in justification of the granting of a subsidy as a temporary expedient, it is quite plain to everybody that the subsidy provides no solution of the coal problem at all. If the taxpayers are going to find a subsidy to settle the difficulties of one trade, how many trades are there in the country, each one of them with difficulties of its own, which will expect the taxpayers to give them similar relief? That has been the difficulty about the subsidy from the beginning, and therefore a subsidy can never provide a solution. It is at most a mere

means of temporary postponement, and those who have resorted to it were bound to remember that after paying for a postponement a good use should be made of the time. You may remember the estimate as to how much the subsidy would be. I remember saying in this hall, soon after the estimate was announced, that when the bill came to be paid it would be a good deal bigger than the estimate. And so it has turned out. The estimate was greatly exceeded, and ultimately the Government has spent public money on this subsidy during the last seven or eight months to the amount of 24 million pounds.

Well, now, I think the country is entitled to know what the Government has got for the money—besides a general strike. You Yorkshire people understand the business of buying and selling very well. I suppose nobody has ever paid so big a price before to buy time. Not yards of cloth or hanks of yarn—but *time*. It is no good buying time at so prodigious a price unless good use is made of the time that you buy. Of course, it was inevitable that months should be occupied in the preparation of the Coal Report, for which we owe a great debt of gratitude to Sir Herbert Samuel. But I think the Government has still got to justify

the use it made of the period after the report was presented. I heard the Prime Minister telling the House of Commons as recently as last Friday this :

I have come to the conclusion that there is no possibility of the two parties to the coal dispute coming to an agreement by themselves, and I have, therefore, prepared proposals to be put before them by the Government.

Really, when he said that last Friday, is it too much to say that everybody must feel that that ought not to be a new discovery and that the action for which the Government now take responsibility might have been expected long before ?

I am going for a few minutes to point out a contrast. I belonged to a Liberal Government that had to deal with a coal crisis and a coal strike. I was a very junior and unimportant Member of that Government, but I shared the responsibility of my colleagues. The Liberal Government of 1912 took a very different view of its duties and functions in tackling the coal crisis of that year. How did the crisis arise ? It arose because the miners were pressing for the principle of the minimum wage and the colliery owners rejected that proposal. But what did we do ? As soon as it became clear that

conferences between the parties did not produce agreement, that Liberal Government put forward, on its own responsibility, its own legislative proposals. Our efforts, I remember very well, for the time being failed. The strike began, and lasted for some weeks. A very serious situation developed. But that Government took the bold course of framing and introducing and passing rapidly through both Houses of Parliament a Bill to establish a minimum wage for miners. The owners did not like it, and even on the part of the miners there was an inconclusive ballot. But we persisted. We were the Government of the country, and in a situation like that it is the Government which has to decide what is the right thing to do and take its courage in both hands and try to do it.

See what the result was. By putting on the Statute Book that Act, establishing a Minimum Wage for miners, the Liberal Government secured that right for the coal miners for ever, and within a fortnight the strike was finished, the battle was over, and the men came back to work. Do not imagine that we did that by general consent. Not at all. Our Bill for establishing the minimum wage was opposed on the second reading by the leader of the

Conservative Party, and—still more extraordinary—on the third and most important reading Mr. Ramsay MacDonald and his colleagues voted against it. But it settled the strike, nevertheless. And every Government must pursue a positive, active, consistent policy if it is going to lead the nation out of difficulties like that. Now I am not pretending that the difficulties of the present coal situation are not enormously greater than the difficulties with which we had to deal some fourteen years ago. The war has come. We have lost continuous contact with many of our foreign customers who used steadily to buy British coal. They have sought for fuel from other sources. Italy, which used to be a great customer for British coal, has been developing her water power and electric power. In the Baltic those Scandinavian countries have developed new means of maintaining their own industries. Ships, which before the war used to burn coal, have turned to the burning of oil. Beyond doubt the difficulties to-day are far greater than they were before the war. And, mind you, those difficulties to a very large extent are due to the operation of economic causes which no legislation can alter by a stroke of the pen—causes for which, it is only fair to say, the

miners of this country are in no degree to blame. I think, nevertheless, that the Government must bear a large part of the blame for its failure more promptly to produce its plan and for its failure to carry through its positive proposals.

This sorry history of bungling and incompetence goes a long way to explain the nine days' blunder of the General Strike. But no one who appreciates how a general strike threatens the community at large, nobody who understands the real nature of the instrument which it is sought to use, can fail unsparingly to condemn it. I speak with more freedom because, whatever may have been accomplished during the last fortnight, I believe that this instrument of the general strike can never again be used in this country—and if Liberals had anything to do with bringing it to an end, they are well content to take the judgment of their fellow-countrymen.

But there are many fair-minded workmen—trade unionists—who still do not see quite clearly the essential difference between a general strike like this, which is utterly unlawful, and the exercise of the undoubted right to strike, whether on a smaller or a larger scale ; a right which is perfectly lawful, and which liberal-minded men in all parties have recognised as a

legitimate weapon in the armoury of labour which they must be entitled to use, if they think it right to use it, in a conflict with their employers. And before we pass from this subject—and I hope we are going to pass from it after to-night for ever—I want to make it as plain as I can what the distinction is. I say it cannot happen again, because the collapse of the General Strike and the demonstration that it is fundamentally illegal have made it quite certain that if ever people were so misguided as to try to use that instrument a second time they would be stopped, not only by most effective action in the Courts, but by a thoroughly informed public opinion.

I want to make plain what the distinction really is. The big distinction does not turn merely on the point of not giving notice. The failure to give notice is a very serious matter, and I thought it my duty to call the attention of men who were involved in this General Strike to that aspect of the case. But don't imagine that the fundamental difference between the General Strike and a lawful strike depends simply on this question of the failure to give notice. The real distinction lies deeper. It does not depend, believe me, on some legal quibble. It depends on considerations of

common sense, it depends on the exercise of clear thinking, and on an understanding of the Constitution under which we live, and which is the only source of all our liberties. The law on a subject like this is not nearly so technical as some people suppose. You may not believe me, but the law is a far more sensible thing than some laymen imagine. It pays very little attention to the form or to the word, and a great deal more attention to the substance and the fact. I did not speak in the House of Commons as a lawyer ; not a bit. I spoke in the House of Commons as a citizen and as a Liberal who believes tremendously in the right of wage-earners to combine with one another, and, if necessary, to strike as a means of putting pressure upon their employers.

What is the essential difference between a general strike, which I condemn, and an ordinary strike, which I think must be, as things are—unhappily—regarded as part of the undoubted powers of organised labour ? It is this : The right to strike is the right of working men, after proper notice, of course, to put pressure on their employers by withholding their labour. A trade dispute, properly understood, on the side of the workmen, is a dispute in which workmen combine to try to make

their employers do something. But a general strike, like the one we have just passed through, is a perfectly different operation, for it necessarily works in an entirely different way. If it succeeds, the effect is to make—not employers, but the Government do something, Parliament do something, the community do something. If you make things sufficiently awkward, inconvenient, and dangerous for ordinary people, who are not employers at all—if you put people to such inconvenience that they begin to grumble, that grumble will gradually grow into a protest, and Members of Parliament will say that something must be done, and they will approach the Government and the Government will say, “Constitutionally and in a Parliamentary sense we don’t think it is right, but in view of the General Strike we throw up our hands.”

You see it is not really an attempt to make employers do something—it is an attempt to make the community, the people, the Members of Parliament, the House of Commons, the Government do something. There is a legitimate way of doing that. I have not fought four elections in the Spen Valley without knowing the way it ought to be done. If you will think it over you will see that the distinction

is really vital to the case. The question is not whether the people who proclaim a general strike are revolutionaries. No sensible man believes that the ordinary British working man wants a revolution. Very unfortunately, some of them, I think, are too much controlled by a few people who do. But the sanity, the good sense of the British workman is a thing which none of his fellow-countrymen will ever wish to dispute. That is not the question. Neither is it really the question whether the people who called the General Strike were not trying to help the miners. I am sure they were ; though how any sane body of men could ever suppose that they were going to help the miners by stirring up in the whole community a sense of indignation with the Trade Union movement passes my comprehension. The longer the strike went on, the longer the case of the miners was postponed—the more money was wasted, and the less you had for helping the coal trade when it was over. One of the greatest condemnations on those who called this General Strike is that the country had a real sympathy with the difficulty of the miners. What folly, when the mass of the country felt like that, to adopt a course which was calculated to set everybody sooner or later against the very

movement you were trying to support ! The question as to whether it was revolutionary or whether it was helping the miners is not the real point. The question really is whether the success of the General Strike, if it succeeded, does not necessarily involve a substitution of the strikers' will for the will of Parliament. That is the point. In this world, people have to be judged not by noble sentiments and strong sympathies, but by the perfectly obvious consequences of what they deliberately do. If the strike really meant the substitution of the strikers' will for the will of Parliament, it would have meant the overthrow of Constitutional government, and I should be doing no service to those whom I try to serve if I were for a moment to pretend that it meant anything else.

Nobody has put this more clearly in times past than some of the most respected leaders of labour. Mr. Clynes made a courageous speech at the Trade Union Congress at Glasgow in September, 1919, when he said :

I have no doubt that we shall be told that this new-found and ill-digested policy is worth a trial. Those who have thought this matter out know that in giving it a trial they would begin by paralysing our industries and our whole social system. That paralysis would affect

first, and worst, the masses of the poorer population. You cannot do it without anticipating a condition of civil war.

That is Mr. Clynes. Let me take Mr. J. H. Thomas at Hartlepool on April 18th, 1925, when he said :

The suggested mass attack by all the Unions must by the very nature of things, be an attack upon the community as a whole.

In my ears there have been drumming, ever since I made my first speech, expressions from some quarters, even from the Trade Union Congress itself, saying, " No, no ; you are quite wrong. It isn't an attack upon the community as a whole." I know well enough there are good motives for which responsible people try to secure what they consider just and fair, but you cannot judge people purely by their motives. You have to see the result of that which they call into being. Whether they wished it or not, whether they call it a general strike or not, the fact remains that they embarked on " an attack upon the community as a whole."

Mr. Ramsay MacDonald wrote in April, 1924 :

All my life I have been opposed to the sympathetic strike. It has no practical value. It is simply beating

the air. It has one certain result—a bitter and blinding reaction.

Now, I ask you : Was I not right to take the first opportunity I could find, although it was late at night and everybody wanted to go home—was I not right to take the first opportunity I had to point this out where it ought to be pointed out—on the floor of the House of Commons ? Very few want to expose the working classes—I do not, from my heart—to the “bitter and blinding reaction” of which Mr. MacDonald speaks.

It has, therefore, nothing to do with it that many trade unionists who have lent themselves to this departure profess—and I am sure profess with complete sincerity—a deep regard for the Constitution. The point is that the means which were being adopted are not the means which Parliament authorised when it gave exceptional privileges to those conducting a trade dispute. The explanation of it all is that it is a widespread confusion of ideas—a most dangerous confusion which I hope recent events have done something to clear away—to imagine that all that happened is just like an ordinary strike.

I said that this confusion was widespread, and how widespread it has been will appear

from an extract I have here. You will find it in *The Times* of August 1st of last year. It is a report of a speech by no less a supporter of the Constitution than Mr. Ramsay MacDonald himself. He was speaking immediately after the Government, in contradiction of everything it had previously said, suddenly granted the subsidy. Naturally, Mr. MacDonald was moved to much eloquence at that result. He was rhetorically exuberant. Well, rhetoric is a great danger, because it often leads people to use expressions which, when they look back, may not actually represent their sober judgment. Mr. MacDonald said that on the day before he felt as if we had "almost gone over the precipice," and he added that it was only when the Government "realised that there was complete union of the industrial and political sides of labour, and when they visualised a nation, which in half a dozen days from now, would, I think, have been a completely paralysed nation," that they gave way. A completely paralysed nation! You remember what I read from a speech of Mr. Clynes. But if the Government could visualise the threatened paralysis of the nation last July, surely those who took the responsibility of actually calling a general strike a fortnight ago must have

visualised it too. It cannot be too clearly understood that the plans which were disclosed on Saturday, May 1st—the plans of the General Council of the Trade Union Congress—for stopping, without notice, without ballot, a series of selected and essential industries, picked out for the express purpose of exerting pressure upon the life of this country, and thereby paralysing the nation and compelling the Government, or Parliament, to continue the subsidy—are not the legitimate exercise of Trade Union rights, and, believe me, if they were, nothing is more certain than that the community would insist that those rights should be curtailed.

That danger, I trust, is now averted, but in a crisis which involved the stopping of the essential services of the country—trains, buses, ports, press—and which, if it was effective, must have ended in strangling the life of the community unless Parliament gave way, I think it was the plain duty of everyone to ask himself this simple question: Do I want the General Strike to succeed? or do I want it to fail? To my way of thinking, at that moment, it was the only question which any honest citizen could be required to answer. Well, I wanted it to fail. And so, I think, did the

overwhelming mass of our fellow-countrymen. Surely everyone who wanted it to fail—everyone who understands what it would have involved if it had continued—the risk of injustice, of suffering, of violence, of resentment, of reaction—must have wanted it to end as soon as possible. It was for this reason that I took the view that the best service any man could render was to make it plain to all engaged in it that there were serious consequences attaching to themselves if it was not promptly abandoned.

That was not an attack on Trade Unionism. It was an effort to save Trade Unionism from a fatal error. For in a country like ours, where people cannot be bullied, but are always willing to be persuaded, organised labour is making a terrible mistake if it sets itself against the steady judgment of fair-minded men and women.

And what is the result? On the railways there has been a frank and manly admission by the Trade Union leaders that the strike was a wrongful act, and a written promise signed that such an attack shall not be repeated. There was real statesmanship in that, and although the hot-heads who were enthusiastic for this new method are sore and indignant, the day will soon come when sensible trade unionists will acknowledge that their legitimate

rights have been preserved only by the frank abandonment of an impossible position, and by the renewed goodwill which their leaders have helped them to build up.

People talk about a victory in this matter. I hope that this talk will not set one side against another. There is only one victory—the victory of the common sense of all classes of the British people. It is not a victory of lawyers against laymen, it is not a victory of one party against another, it is just the influence of British character and British temperament finding a way by which we might, acting all together like true comrades, forget the mistakes, retrace the false steps and acknowledge a grievous error.

And now let us forget the past. Let us think of the future. Mr. Cramp, the industrial secretary of the National Union of Railwaymen, made a speech at Plymouth on Sunday on the result of the General Strike. He pointed the true moral. He said :

There would not again be a general strike of that character. He did not believe that the general industrial strike could ever be carried out effectively, because if they carried it to its logical conclusion they starved and paralysed themselves as well as everybody else.

Those are wise words. Everybody who was

tempted at any time to support the General Strike should think them over. All my public life, ever since the first speech I made in the House of Commons almost exactly twenty years ago,¹ I have stood up for the just rights of organised labour. Those rights were put in danger by the mistakes of the last fortnight, but it will be the business of Liberals like myself, if reactionaries attempt to exploit recent events in their own interest, to take up our old task and throw all our influence into the scale, not in order to favour one class as against another, but in order to unite, in the light of modern industrial conditions, the rights of organised labour with the realities of freedom.

In a final word let me point out that while we were bound to have had this discussion, what is wanted now is not merely criticism on the one side and excuses on the other side about the past. What is needed henceforward is constructive help for the future. We must regard the conclusion of the General Strike not as the end of a crisis, but rather as the beginning of a sustained effort by the whole community to find a way, if a way can be found, out of the coal conundrum. Sir Herbert Samuel has made proposals on which those who feel deeply and

¹ *Supra*, page 11.

sincerely the hardships threatening the British miner have placed their confidence. The Prime Minister has submitted detailed suggestions and the parties have been considering them to-day. What is the duty of all of us? The duty of all of us, I think, is first, to recognise frankly that if sacrifices are called for they cannot in fairness be imposed solely on one section. It is useless, as Mr. Frank Hodges very wisely said the other day, to refuse to face unpleasant economic facts, but it would be a disaster, an injustice, a disgrace which nothing could excuse if our relief at being delivered from the menace which threatened us last week made us indifferent to the realities of the situation of the miners to-day, which, mark you, the General Strike could do nothing to relieve. Liberals have made some proposals on this subject, and there is much in the Commission's report which convinces us that we are on the right lines. I cannot, however—it would not be wise to discuss these details to-night. Enough to say that after a great storm the air is clearing. You cannot find practical solutions for baffling problems when the thunder is rumbling round your ears, and when the darkness is only illuminated by the flashes of a lightning strike. But now that is over, it is for all men of goodwill and

resolute purpose to unite their energies and prove that reason is more potent than force, and that in the domestic and industrial, no less than in the international, sphere it is co-operation and agreement which point the only way of salvation.

IV

SOCIALISM

[During Mr. Bonar Law's Ministry the Labour Party raised a debate on Socialism and the Capitalist System, basing it on a Resolution moved by Mr. Philip Snowden, on March 23, 1923, in the following terms: "That, in view of the failure of the capitalist system to adequately utilise and organise natural resources and productive power, or to provide the necessary standard of life for vast numbers of the population, and believing that the cause of this failure lies in the private ownership and control of the means of production and distribution, this House declares that legislative effort should be directed to the gradual supersession of the capitalist system by an industrial and social order based on the public ownership and democratic control of the instruments of production and distribution." The debate was adjourned, and resumed on July 16 (during Mr. Baldwin's first Ministry), when the following speech was delivered. When the Division was taken the Resolution was defeated by 368 votes to 121.]

MR. SPEAKER,—The Debate which we are resuming to-day was opened nearly four months ago by two remarkable speeches, one by my hon. Friend the Member for Colne Valley (Mr. Snowden), and the other by the right hon. Gentleman the

Member for West Swansea (Sir A. Mond)¹, and I cannot help feeling that it is difficult, especially in the sort of weather we have been experiencing during the last few days, that even the most appetising dish in the Parliamentary bill of fare should remain entirely fresh when it has to be kept for four months. The interval, at any rate, has given time for all of us to read the report of the speech of the Mover of this Resolution,² and I desire to make one or two comments upon it. The House, I think, will generally agree that it was the speech of a man whose courage and sincerity are admired by many more people than agree with his arguments and conclusions, and, as I have a great admiration for my hon. Friend's logical powers, I must be allowed to add that that speech, regarded as a piece of connected reasoning, appears to be singularly weak in its logical construction. After all, what does the hon. Gentleman set out to prove? I take the words in the Resolution, which state :

“ This House declares that legislative efforts should be directed to the gradual supersession of the capitalist system by an industrial and social order based on the public ownership and democratic control of the instruments of production and distribution.”

¹ Now Lord Melchett.

² Mr. Philip Snowden.

I submit to the House that anybody who sets out to prove that Resolution has got, among other things, to try to prove three propositions.

(1) He must try to show, in the first place, that the so-called capitalist system (which, in the vocabulary of my hon. Friend, appears to be the system under which we have existed since the industrial revolution—I should have thought it began before that) has produced on balance and on the whole an accumulation of evils so serious and so grave as to outweigh all the progress for which it is responsible.

(2) In the second place, he ought to try to show that the evils which may and do accompany that system, and of which everybody in every part of the House is quite conscious, are incapable of alleviation by anything less drastic than the complete destruction of the system itself.

(3) In the third place, he ought to endeavour to show that when you have destroyed that system, you will thereby have got rid of those evils, and you will be able to introduce a new system and establish new conditions which will not be even more injurious to human happiness and progress.

Those three elements are essentially involved in an attempt to prove the proposition which

the hon. Member for Colne Valley has put before the House. Some people may think they can be proved, and others may think they cannot. But nobody who has read the hon. Gentleman's speech can doubt the fact that he never made the slightest attempt to prove any one of the three.

Before I examine his speech more in detail, allow me to call attention to two curious features in the language of the Resolution. I am struck by the omission of one word and the insertion of another word. The word that is omitted is "all." We are invited to address ourselves to secure the setting up of a new social order based on the public ownership and democratic control of the instruments of production and distribution. The sacrosanct phrase has always been, "*all* the instruments of production and distribution," and you have generally thrown in "exchange" as well. We do not want a false issue. If some private capital is to be taken while other private capital is to be left, then the question ceases to be one of principle, and becomes a question of discretion and practical judgment in each individual case. I should think every hon. Member will agree, certainly every Liberal will agree, that there are some classes of enterprise which, as a practical

matter, are better run on a system of public ownership. And it may well be that under existing conditions the list has to be revised.

But the whole point of this Motion is that we should deliberately and consciously set ourselves to secure that, in the end, it will be illegal for any man or for any body of men to start and run any business, small or great, for themselves, or own it by themselves. The essence of the proposal, therefore, is the universality of its application. If Socialism meant nothing more than legislating in some particular case to prevent somebody from carrying on his business just as he likes, then the Factory Acts, the Shop Hours Acts and the great body of social legislation are properly called socialistic, and every House of Commons enacts socialistic legislation in that sense. But that is not really the sense in which this Motion is proposed, and it would be a misfortune if people outside are misled about this matter. The issue that is raised is whether we should aim at a conclusion which would make it illegal to own anything except articles for personal use. It would substitute public ownership and democratic control for private ownership—however much Parliament might think fit to control them—not merely of land and mines but of railways,

banks and ships, and of every factory and every workshop, small and great, of every retail shop, of every public-house, and, I suppose, of every newspaper.

I heard the hon. Member for Hillsborough (Mr. A. V. Alexander) protest when the right hon. gentleman the Member for West Swansea¹ referred to co-operative societies. I do not see how a co-operative society can be regarded as other than an enterprise employing private capital, because a co-operative society is an association of small capitalists, each of whom contributes from his savings to carry on the business. He may sell his share in the business, and the ordinary co-operative society trades with the public as well as with its members. It will be interesting to know by what process of reasoning co-operative societies are to be saved from the sentence of death which is to be pronounced on every small shopkeeper by this Resolution.

An attempt is made to mitigate the alarm which this universal prospect might cause by introducing into the Resolution the word "gradual." That comforting variation has since been the subject of a polysyllabic explanation by the hon. Member for Seaham (Mr.

¹ Sir Alfred Mond (now Lord Melchett).

Sidney Webb).¹ He has explained the "inevitableness of gradualness." I submit that to lay stress upon this aspect only obscures the real point. I perfectly recognise—and I make the fullest allowance for the fact—that this proposal is put forward with a view to it ultimately attaining its end by a series of gradual doses, but, if your object be to pull down the whole house, it is useless to urge that you are going to pull it down gradually, one stone at a time. The real truth—it is much better that we should all face it—is that this discussion has got nothing to do, as I submit, either with the question whether public ownership should be the method adopted in some specific case or with the question whether your ultimate object can be attained only by successive steps. The point is whether the system of production and distribution, such as we know, based on and sustained by accumulated savings and private thrift, working under the natural human desire to improve one's position, to provide for oneself and one's family, and earning the rewards of initiative, of enterprise, and of energy—should be got rid of and its place should be taken across the whole field of industrial and commercial activity by a new

¹ Now Lord Passfield.

system universally and compulsorily applied, in which none of these incentives will operate. That is the proposition as I understand it, and that is the proposition which some of us are determined to resist, and here I would ask leave to be allowed to say that we resist it all the more vigorously, because we are just as much alive as the Labour Party to the evils which if unchecked accompany the present system. The difference between us is not that. The difference is that we are convinced that those evils are to be avoided, not by destroying the existing system root and branch, but by controlling its operation with a constant view to the public good.

I have said that the hon. Member who moved made no attempt whatever to establish any of the essential propositions which lie at the root of the Motion. Instead of doing so, after defining according to his own meaning the capitalist system, he called attention to post-War figures—very disturbing and deeply impressive figures—as to the present state of unemployment, of wages, of housing, and of health. Then he made an enormous assumption. First of all, that all these things are directly due to capitalism and nothing else, and secondly, that if you swept capitalism away

they would all disappear. I want to ask the House, is that, after all, a fair account—I will not say is it a complete account—but is it a balanced statement of the consequences of the industrial system as we have known it during the last hundred or hundred and fifty years? If, indeed, everything that has happened during the last hundred years is to be attributed to capitalism, is the balance entirely on the wrong side? Everybody knows that there has been an immense advance in the standard of life and comfort, and a constantly accumulating and increasing code of social legislation; and side by side with this system which my hon. Friend thinks that we should get rid of, it has, in fact, been found possible to make remarkable progress. I do not for a moment say that it would not have been far better for the progress to have been made sooner and to have been made faster, but the point is that if you are going to present an argument, not merely to the House of Commons but to the people of this country, the workmen and workwomen of this country, in which you begin by describing the results of capitalism and you limit yourself to the things upon which the hon. Gentleman descanted, I do not think that you are giving a fair version of the facts. I have here a

quotation which is all the more relevant, because it comes from one of the writings of the hon. Gentleman (Mr. Snowden) himself. In an interesting book which he wrote on the "Living Wage," he points out this :

" Factory and mines legislation, laws enforcing sanitary conditions in workshops, workmen's compensation for accidents, free education, public health administration, national health insurance, old age pensions and the like are just as much, and indeed in their results much more so, additions to the living standard as an increase in the actual money wage of the workers."

I know that we shall all agree, but where was there any reference to that in the hon. Gentleman's speech ? He went on in another extract to say :

" In the period from 1850 to 1900, during which, on the whole, wages advanced by not less than 60 per cent., there was also a very considerable decline in the prices of commodities."

Everybody knows that is true. It may be said that that was long before the War. Well, the hon. Gentleman has written another book since the War. It is a book called " Wages and Prices," and it was published in 1920. In that volume, after pointing out how the rigours of unrestricted individualism are modified by public opinion, by collective bargaining, by

custom, by the growth of human sentiment, and the effect of education, he says :

“ The average minimum standard of living, fixed by public opinion, is, on the whole, continually rising, though there are frequent oscillations. . . . On the whole, the tendency is for real wages on the average to rise.”

I am not saying that they have risen sufficiently or fast enough, or that there is not a great deal left to be done, but you do not give a fair account of the system under which we live unless you allow fairly and squarely for some of these things. Let us just consider two or three essential facts. In 1811 the population of Great Britain was 11,000,000. In 1911, a hundred years afterwards, it was 41,000,000. How was that increase possible without the operation of a system which has so immensely increased the power of the country to produce wealth ? When I find that in the last thirty years the annual receipts of the Post Office Savings Bank have increased fourfold ; when I find that in a little more than a generation, ten years have been added to the average span of human life, both male and female ; when I find that the mortality of infants (though it is still shockingly high) has in fact been more than halved ; and when I find that in 1850 each member of the population of these islands took

on an average only three rides a year by any form of locomotion, I cannot think that the hon. Gentleman's account of the system which he wishes to overthrow was fair or adequate. I cannot make my own position too plain. I do not for a moment say that there is the slightest reason to be complacent or self-satisfied about these things, but when one is asked to draw up a balance-sheet and to see whether the existing system can "deliver the goods," it is really not fair to look solely at one side of the account. If I trouble the House for one moment with one more quotation, I do so because it comes from one of the prophets and apostles of this movement, my hon. Friend the Member for Seaham (Mr. Sidney Webb).¹ I notice that what he wrote was reprinted in the Co-operative Wholesale Societies' Annual, so my hon. Friend the Member for Hillsborough² will also be interested. This is what he wrote :

"Bad as we are sometimes tempted to think the present condition of the people, it is clear that on the whole there has been a substantial advance since 1837. In the great mass of trades and in nearly all places the money wages of the men are much higher, and the workman obtains a far larger supply of commodities in return for his labour than

¹ Now Lord Passfield.

² Mr. A. V. Alexander.

he did sixty years ago. In many cases the hours of labour are shorter, the conditions of work are better, and the general standard of life has been considerably raised. The housing accommodation, both in town and country, is much improved. The sanitary conditions have often been revolutionised ; education is not only far more general, but it is also far more extensive, while such opportunities for culture as libraries, museums, art galleries, music and healthy recreation are much more accessible to the workman than they ever were before."

And he ends up by observing :

" It is the evil effect of obsolescent hand industry, with its small masters and isolated home labour, that is standing in the way of improvement. Not until we can thoroughly eradicate the remnants of this system from our midst can we hope to level up its unfortunate victims to the high standard of life which has been given to their more fortunate brethren by machine industry and world commerce.

MR. SIDNEY WEBB : What is the date of that ?

SIR J. SIMON : The date of it is 1897.

MR. WEBB : Thirty years ago.

SIR J. SIMON : Are we to understand that the industrial revolution, which began I think about 1780, did not have these deleterious effects until the year of Jubilee, 1897 ?

I would not qualify my own condemnation of bad conditions, but is it really fair to treat the bad conditions to which the hon. Gentleman refers as though they were the inevitable

consequences of capitalism, only to be got rid of by its destruction? Let me take one or two instances. Take the crowding of dwellings close round a factory and the overcrowding in the centre of an industrial town. I make bold to say that it is not the inevitable concomitant of capitalism at all. It is due historically to the impotence of local authorities to control town planning, and it is due still more to the insufficient development of the social conscience. There is no reason on earth why, consistently with preserving the essentials of that system, we should not by Parliamentary action secure better results. It is really quite impossible, when you look at places like Port Sunlight or Bournville, to maintain seriously the proposition that you have to get rid of the capitalist system in order to secure effective reform. More important than either of these influences would be the placing of the rating and taxation of land values upon a proper basis.

What ground is there for saying that the supersession of the capitalist system would guarantee employment for everyone, in the light of such partial experiments as have been tried? That is not the conclusion that would be drawn from the old experiment of State workshops in France. It is not the inference

one would draw from recent experiments in Russia.

Let me take an example which will please hon. Members more, because it is one to which the Labour Party was at one time most anxious to call public attention, namely, the case of Queensland. The State of Queensland has had the benefit of having the Labour Party in power since May, 1915, and whatever else Socialistic enterprise may have accomplished there, it has not abolished unemployment. In five years the State railways, instead of showing a surplus of something like £50,000, presented the country with a deficit of about £1,500,000. Yet in 1921 Queensland had more unemployment, not only than any other State in the Commonwealth of Australia, but than any country in the world which tabulates unemployment statistics.¹ The truth, I venture to think, is this, that Socialism cannot compel the consumer to buy more commodities or to pay for more services. Treating the capitalist system as dating from the industrial revolution (1780–1830), its history in this island, among other things, is that it has

¹ This statement was challenged ; but Sir John Simon's letter to *The Times* on August 1st, giving detailed figures for 1919, 1920, and 1921, and the figures given in reply to a Parliamentary question by the Under-Secretary to the Colonies on July 30th, furnished a conclusive answer.

supported a far larger population than could possibly be supported without it.

How are public ownership and democratic control going to increase the effective economic demand for commodities and services? It is no doubt perfectly possible to abolish private enterprise and establish public ownership in a given branch of industry. There are cases in my humble judgment where it is quite right to do so. It is even possible to secure continuous employment in that industry by refusing under any circumstances to limit production when conditions are adverse and by sustaining the industry by subventions from public funds. For instance, if you have a tramway which happens not to be running at a profit it is possible to give a subvention from the rates. But this resource is only possible if the losses on public ownership can be made up out of profits in other directions. If you destroy private enterprise, you cannot, whatever else you do, raise revenue by taxing its profits. I think it clearly follows that the system cannot be applied successfully to industry as a whole unless it can be confidently asserted that the incentive to production under public ownership and democratic control is greater than under private enterprise and competitive energy. If that

were fairly sure it might be a good reason for making a departure of this kind, but experience does not in the least justify so rash an assumption.

Consider the case of our export trades. There are Trade Union leaders in this House who hold positions of great responsibility and authority and on whose guidance and advice great masses of toiling men depend. Let me ask Trade Union leaders who recommend Socialism to the working men who are employed in some of our great export trades to see exactly what risk they are running. Here you have some great export trade in this island which is carried on under circumstances of the keenest competition with America and France and other countries throughout the world. It can only be carried on by a constant exercise of the very finest judgment on questions relating to values, insurance, transport, exchange, supply and demand, and so forth. What is the responsibility which is being incurred by those who are urging that an industry such as cotton or wool or engineering should be subject to public ownership? Can you guarantee that America is going in for public ownership at the same time, or that France is going to do so? If it turns out that the new system does not in fact

carry on these tremendous and complicated enterprises with the same success as the system you are displacing, are you not running a great danger of destroying the means of livelihood of hundreds of thousands of British working men who are looking to you for guidance and advice? Some hon. Members behind me may laugh at that. I do not mind that. But let me say with great respect that this is a very serious point, and since I know hon. Members take a grave view of their responsibilities, I ask them to listen carefully to the arguments I am putting forward.

Most serious of all, has the British workman who is attracted by this Marxian philosophy appreciated that the price of adopting it is the sacrifice of reasonable personal liberty? What will be the effect of the new system on reasonable individual freedom of choice? Is there going to be any right to strike under the Socialistic State? A democratically controlled and publicly managed industrial army must surely exact the obedience of its members, and refusal to work on the task assigned under such circumstances becomes mutiny. Everybody who has carried this theory to its logical conclusion is bound to admit that the exercise of a man's liberty in saying whether he will work

for his employer or not is quite inconsistent with the sole employer being the community. Do working men realise that under Socialism they will have to surrender their right to refuse to work? Do they realise that there is not going to be any choice of occupation? I am quite unable to see how in a Socialistic State you can avoid conscription of labour and how you can avoid penal labour institutions for those who refuse to accept the occupation assigned to them.

I want, if I may, to put two other illustrations. I am putting them because I think it is desirable they should be dealt with before this Debate closes.¹ The system under which Socialism works is a system under which production and consumption will be controlled and rationed. How are you going to control and ration production and consumption unless you are also going to ration the number of mouths to be fed in a family?

Lastly, what is going to be the opportunity of expressing free public opinion under this new system? How can you have an independent Press? You cannot carry on a newspaper unless those who run it have capital. If private capital is to be prohibited, if the only form of

¹ They never were.

enterprise to be permitted is enterprise under public ownership, I believe the logical consequence will make it impossible to have an independent Press under the system which the Labour Party advocates.

I have said so much because those who come forward with a proposal like this must really not complain if some of us desire to examine it before we accept it. But that is no reason for saying that the opponents of this Resolution desire to leave things as they are. Not the least. On the contrary, the fact that it has been possible to make great improvements and great progress during times past is one reason the more for saying that we need not abolish the system root and branch, but should try to make further progress still. My hon. Friend says, and rightly says, that he recognises that sympathy is not the special possession of any quarter of the House, and all of us are deeply concerned to see what is the best way to remedy the evils to which he calls attention. The real question is, is it not possible, while preserving the incentives to energy and enterprise, while preserving the natural rewards of success, the encouragement of thrift, the stimulus of competition—is it not possible to go further in promoting social justice and to prevent the evils

of unrestricted capitalism by adopting wise policy and bold legislation ?

And here may I point out to the House the extraordinary method of argument adopted by my hon. Friend ? He admitted in his speech that the evils of unrestricted capitalism have in many cases been met in the past, during the continuance of the capitalist system, by Parliamentary interference, by setting up minimum standards, by enforcing a common rule, by carrying social legislation ; but, says my hon. Friend, with a *naïveté* which is really charming, whenever that succeeds, that is Socialism ! There is all the difference, however, between regulating a machine and pulling it to pieces, and the fact that it is possible under the existing system to regulate the machine, and that there may be many directions in which it can be regulated further, is no reason at all for saying that the machine has to be scrapped and an entirely new machine, not hitherto ever seen in actual operation, set up in its place. If, indeed, we had reached the end of what a progressive community can do to reconcile competitive industrial action with the rights of all who take part in it, that might be a reason for attempting, however rashly, some new and untried system ; but the real lesson of the past is the hope of the future.

We have to open up new natural resources ; we have to liberate enterprise under a system of taxation which does not penalise improvement but offers better opportunities to everybody ; we have, as I think, to control and to modify the distribution of wealth so as to remove economic injustice. I think that in the future we shall hear much more than we have yet heard of the limitation of profits and of the limitation of inheritance.

But these things can be secured without destroying the springs of energy. Indeed, it is only those who obstinately resist such changes who provide the effective propaganda for Socialism. If the menace of unemployment is going to be more effectively dealt with, if industry is really going to carry its casualties, then industry must be carried on under conditions which stimulate production, and it is by stimulating production, it is by forethought and organisation, it is by removing the barriers which interfere with trade, it is by scheduling jobs which can be undertaken in times of depression, it is by extending Unemployment Insurance, it is by promoting a better spirit between the different people who are engaged in industry, that you may as a practical matter hope to minimise the risk of unemployment.

But, most of all, I will venture to put this to the House. It is the last thing I want to say, and I apologise for being so long. The most important thing of all is that we must humanise industry. You cannot humanise industry by the vain and dreary repetition of an arid formula. The way to humanise industry is not to put it into the strait jacket of universal Socialism; it is to use the force of public opinion, the power of Parliament, to correct the rigours of unrestricted selfishness by putting public needs and human rights before private interests, and by doing it, as I believe it can be done, without sapping the energies or undermining the liberties of the British people.

V

HOME RULE

[There were two General Elections in 1910. The first of them was fought on Mr. Lloyd George's Budget, and the second on the proposal to limit the powers of the House of Lords in the manner which was afterwards embodied in the Parliament Act, 1911. The King's Speech in February, 1912, announced the intention of the Government to introduce a Home Rule Bill, and to the Address Mr. F. E. Smith (now Lord Birkenhead) on February 19 moved an Amendment to the effect that it would be improper to proceed with a Home Rule Bill before revising the composition of the Second Chamber. Mr. F. E. Smith had been invited by the leaders of the Opposition to sit with them on the Opposition Front Bench, and this was the first occasion on which he had spoken from that position. In reply to him, Sir John Simon, who had become Solicitor-General in Mr. Asquith's Government in October, 1910, delivered the speech reproduced below.]

MR. SPEAKER,—The right hon. Gentleman will, I hope, allow me to begin by expressing from this side of the House our sincere congratulations on his appearance as a speaker from the Front Bench opposite. He has shown the House this afternoon, what indeed he has

shown us before to-day, that he is of all its Members the most remorseless and diligent exhumers of other people's speeches. No coroner's officer that ever lived took such pleasure in searching for *dissecta membra*. Some of the quotations which he has brought forward referred to the personal view of the Prime Minister¹, and obviously it is right for the Prime Minister, and not for one of his subordinates, to deal with them. To one or two of them, however, I will refer in a minute or two. If you are going to attempt to prove the case expressed in this Amendment to the Address, that which is primarily important is what happened before and at and during the last General Election, and not what happened at the date of the foundation of the Liberal League. Whatever else it is necessary to prove, to establish the proposition which the right hon. Gentleman is trying to support, he has got to prove—and it is my submission that he has not even attempted to prove it—that the Government, in giving Home Rule for Ireland priority to any proposals for the reconstitution of the Upper House is breaking some pledge or perpetuating some injustice.² We are agreed that that is the

¹ Mr. Asquith.

² The leader of the Opposition (Mr. Bonar Law) indicated his assent.

point, so I will address myself without delay to it. Whatever may be the value of the quotations read by the right hon. Gentleman, he has not brought forward a single quotation supporting that proposition.

Let us see whether the whole contention which the right hon. Gentleman put forward is not based on an assumption which is quite without foundation. It is based, and as it appears to me it must be based, on the assumption that if Home Rule were to be postponed until the House of Lords is reconstructed upon Liberal lines, the difficulty of carrying Home Rule would be increased and the obstacles put in its way when it left the House would be greater. That is a complete misunderstanding. We have, as the result of a long and fierce struggle, limited the unlimited veto of the House of Lords, and, whatever be the future composition of that body, it will never recover that unlimited veto. We have in our minds, and are not likely to forget, the experience of the 1906 Parliament, when for four years, in spite of the fact that our majority in this House was of an unexampled size, not one single Government measure, which on its Third Reading was divided against by the remnants of the official Opposition, ever reached the Statute

Book. In these circumstances no confusion could be more complete, no misunderstanding wider from the fact, than that to suppose that the reconstitution of the internal composition of the House of Lords, as we understand it, is going to restore its unlimited veto. The language of the much-criticised Preamble makes that perfectly plain. It refers to the prospect of reconstituting the Upper House, and it goes on in express terms to state that the substitution there referred to must involve a measure for "limiting and defining" the powers of the Second Chamber. It has never entered into the mind of those responsible for the Parliament Act, it has never entered into the contemplation of the Liberals who supported it, and it has never been dreamt of by their supporters in the country, that we who for years have suffered under the unrestricted powers, which in our view the House of Lords has abused, are going as the result of the reconstitution of that body to restore to it its unlimited veto.

It is quite true that if Home Rule for Ireland is passed up to the House of Lords in this Session it will be in circumstances which involve some handicap on one side or the other. But who suffers from the handicap? Does any hon. or right hon. Gentleman opposite suppose

that if we reconstituted the House of Lords, the result of such reconstitution would be to make it more bitterly opposed to Home Rule? It is perfectly true that even at this moment there is some inequality in the position as between the chances of Liberal legislation and the chances of Conservative legislation. In spite of the Parliament Act that disparity exists. But does any human being suppose that any proposals of ours for reconstituting the House of Lords are going to increase that disparity? I noticed that the right hon. Gentleman, amongst his choice extracts, did submit one quotation bearing on this point, but he skated over it very lightly, and I am not surprised. He said that he was going to read a quotation from a Member of the Government which would show that it was contemplated by those responsible for the Government that this reconstitution of the House of Lords might vary the powers as given under the Parliament Act. That is true. The quotation was from the First Lord of the Admiralty¹ to the effect, if I followed it correctly, that in the event of such reconstruction it might be that we should find methods "less dilatory"—not more dilatory—and more convenient for carrying legislation

¹ Mr. Winston Churchill.

through the Lords. We have had enough experience of deadlocks and are not prepared once again to create a deadlock between the two Houses. Whatever may be the proposals put forward for reforming the internal composition of the House of Lords—and I understand that the right hon. Gentleman himself agrees that they are urgently needed—they are not likely to be proposals which will in the least degree restore that unlimited power for mischief which in the past the House of Lords has possessed.

MR. F. E. SMITH: Will these reform proposals, if and when they are introduced by the Government, leave the powers of the House of Lords as they are to-day, or will they modify them in one direction or the other?

SIR J. SIMON: I do not complain of the right hon. Gentleman's putting that question, but really his intervention, though perhaps intended to assist, merely obscures the real point, which I stated when I began, and which the Leader of the Opposition¹ agreed was the point at issue. The whole case which the right hon. Gentleman seeks to make depends on the assumption that such a reconstitution of the House of Lords as is contemplated by the Government is a

¹ Mr. Bonar Law.

reconstitution which would give to the House of Lords greater powers to throw obstacles in the way of legislation than they possess to-day. It will do no such thing.

MR. BONAR LAW: Are we to understand that under the newly constituted House of Lords there is to be no method by which there will be an appeal to the people?

SIR J. SIMON: I thought that until the last half-dozen years no constitutional authority had suggested that the House of Lords had any right to insist on an appeal to the people. The party opposite are supposed to be in special charge of the Constitution. I should have thought that a Constitution which was representative in its nature, and which depended essentially upon the periodic choice of the constituencies, would have met the case. But the right hon. Gentleman has been good enough to put a question to me, and, without impertinence, might I submit a question to him? I have said that so far as we are concerned, we do not contemplate, and do not intend, that there should be any restoration of the unlimited Veto of the Peers in any way. The question which I would venture respectfully to submit to him, not for immediate answer, but for consideration, is this: "If, and

when, the right hon. Gentleman and his Friends return to power, do they or do they not propose to repeal the Parliament Act ? ”

MR. BONAR LAW : If the right hon. Gentleman would like an answer now I am perfectly ready to give it. It will be with us a debt of honour, which we will keep, that we shall not repeal the Parliament Act except simultaneously with a reform of the Second Chamber.

SIR J. SIMON : I am sure that the right hon. Gentleman will see that my question was relevant to the Debate, and I am indebted to him for an answer which also is perfectly relevant.

MR. BONAR LAW : I want an answer to the question I put to you.

SIR J. SIMON : I may have misunderstood the right hon. Gentleman, but I am in the recollection of the House, and I thought I dealt with the point which he had put to me. I dealt with it as best I could. I frankly admit the answer given to me is a satisfactory one, and requires no supplementary correction in the Press.¹ I desire to point out to the right hon. Gentleman why, in particular, I thought the

¹ This referred to a recent incident in the debate on the Insurance Bill, when Mr. Bonar Law had stated that the party he led would repeal it; next day he wrote to the newspapers to qualify this declaration.

question one which he would wish to answer. It was because of something which was said by him in the first day's Debate on the Address. He then told us, he having just been present in the House of Lords at the formal opening of Parliament, how that spectacle, that pageantry, had impressed his mind. He said, in effect, that in his view it was a melancholy thing to see that stately pageantry, reminding us of the past, kept up when—as he regards it—the real spirit and meaning of such events have flown. I think there were some Members on this side who know what the right hon. Gentleman meant. In the old days, the good old days, before the abolition of the Veto—good old days never to return—a leader of a Conservative party in the House of Commons, although he was in a minority, listened to the King's Speech framed for His Majesty by a Liberal Government with very different feelings. He witnessed all this stately pageantry, and he reflected to himself that it was all very well for a Liberal Ministry in the House of Commons to propose legislation, but that he and his friends could trust the House of Lords to prevent it passing. I think we have begun to understand why it is that the right hon. Gentleman feels there is an uncomfortable change. He returns here from that

melancholy spectacle prepared to shed a tear to the memory of the stately pageantry of the past.

The central fact of the situation is, that it does not enter into the proposals of the Government at all to restore to the House of Lords its unlimited powers. That fact, as I conceive, meets the whole pith and kernel of the attack which is made by this Amendment. There is, it is quite true, one other aspect of the matter which might be put forward. It is one which has been very frequently put forward in the course of discussion in the country, and it has from time to time been suggested as an argument in support of the right hon. Gentleman's view in this House. It is sometimes said—and I should like to know whether it is persisted in now—that the fact that this Government is going to introduce Home Rule as a first obligation after the passing of the Parliament Bill, was obscured from the electorate, and is a breach of faith to the country. Is that suggested now? Some things have been said so often that I am quite confident that hon. Gentlemen opposite must really suppose them to be true. I desire to call the attention of the House to the extraordinary way in which perfectly honourable people will persuade themselves in quite a short space of time that history

is quite different from what we thought it was. Let me, if I may, give one example, an example which we shall admit at once to be one associated with perfect good faith in statement. I can show in a sentence that it is amazingly wide of the mark. I see opposite the right hon. Gentleman the Member for East Worcester-shire.¹ So recently as the Vote of Censure Debate of August last year, when the Prime Minister was speaking, the right hon. Gentleman interposed in order to make a statement. The Prime Minister had just been saying that he did not believe there was a single hon. Gentleman on the Opposition Bench who had not again and again asserted to the electors, with every circumstance of solemnity and clearness, that Home Rule was the immediate consequence of the passing of the Parliament Bill. Thereupon the right hon. Gentleman opposite interposed to say :

“ The right hon. Gentleman has said that there is not a single Member on these benches who in the course of the General Election did not mention Home Rule. In my case I only said anything about it in one single speech.”

We all allow, nobody more than I, that when the right hon. Gentleman says that, he is expressing candidly and clearly his memory, so

¹ Mr. (now Sir) Austen Chamberlain.

far as his memory serves, of recent events. But I had the curiosity to look this up, and if this is one single speech, it is a single speech which has been repeated a great many times. I looked it up in the files of *The Times*, and, as one would expect, a statesman of the right hon. Gentleman's position is reported with reasonable fullness even at election time. I find—with one single exception to which I will refer in a moment—that there is no single speech of the right hon. Gentleman during the election of 1910, in which he did not refer to the specific point that the Government, in his view, were under the immediate control of the hon. and learned Gentleman the Leader of the Irish party,¹ and that Home Rule was coming as a consequence of the passing of the Parliament Bill. He said so at Glasgow on November 25th, at Edinburgh on November 29th, at West Bromwich on December 1st, at Darlington on December 2nd, at Newcastle-on-Tyne on December 3rd, at Oldbury on December 8th, and at two other places. Really, the right hon. Gentleman is not doing justice to his own powers of repetition. I promised I would mention the one exception, and it is fair to do so. It is the only one I can see. It was on November 28th,

¹ Mr. John Redmond.

when the right hon. Gentleman went to Edinburgh in order that he might address the Scottish Tariff Reform League. I can well believe that he had his hands full, and did not refer to Home Rule at all. So much for the suggestion that this matter was not emphasised constantly, repeatedly, and vehemently by right hon. Gentlemen opposite.

It is said, " Ah, yes ; but what about your own side ? " I thought I heard the right hon. Gentleman who has just spoken say that there was only a single reference by the Prime Minister to Home Rule in the course of a long election.

MR. F. E. SMITH : Until the right hon. Gentleman was heckled.

SIR J. SIMON : I will simply take a single test. It is not possible that one should attempt to make a complete list, but I take one single test that any fair-minded man in the House will recognise to be sufficient for the purpose. Polling began on December 2nd. I do not propose to take the date after the size of the Liberal majority was ascertained, when it was suggested that the declarations became clearer. The first day's polling was on December 2nd. I have *The Times* newspaper for December 2nd. I find on looking into it that on the previous

day my right hon. friend, the Foreign Secretary¹ was speaking at Portsmouth. *The Times* headed the report of his speech, "Home Rule and the Referendum." The right hon. Gentleman the Secretary for War² was speaking in his own constituency, and *The Times* headed the report of his speech, "Mr. Haldane and Home Rule." The right hon. Gentleman the Leader of the Liberal Party in the House of Lords³ was at Exeter, and he is reported as arguing in favour of the granting of self-government to Ireland. My right hon. Friend the Prime Minister was speaking at Wolverhampton. He was in terms refuting the suggestion that the then Leader of the Opposition⁴ had put forward, namely, that he should undertake to submit Home Rule to a Referendum. I say, in the face of that, it is a fable, however honestly entertained by hon. and right hon. Gentlemen opposite, to say that this question was not put before the people of this country by both sides as an immediate legislative proposal to follow as the result of, and consequent upon, the passing of the Parliament Bill. To assert the contrary is really to forget most recent history, although it is history

¹ Sir Edward Grey (now Viscount Grey of Fallodon).

² Mr. Haldane.

³ The Marquess of Crewe.

⁴ Mr. Balfour.

which we have all had a part in making. They one and all prophesied that once the Parliament Bill had passed a Home Rule Bill would be introduced. Let me take one more example. The right hon. Gentleman the Member for St. George's (Mr. A. Lyttelton), speaking at the very beginning of the election, said :

“ The Parliament Bill once passed, the Radical Government, if faithful to its pledges, will carry Home Rule.”

They all said so. There they sit—a row of prophets—major and minor. They, every one of them, prophesied the very thing which has come about. And now they come down to this House and go about the country, and go through the solemn pretence—although I believe they have persuaded themselves of it—that the very thing which they asserted was about to happen is a monstrous fraud upon their own expectations. So far as I can observe, this particular attitude of the Opposition is unique in two important particulars. In this matter, in prophesying that Home Rule would follow the Parliament Bill, they all said the same thing—and it is true !

Although that is the single example of a thing which was both unanimously said and correctly stated by the leaders of the Opposition at the last General Election, they are anxious

now to forget all about it. Let me for a moment go a stage further back. There has never been a time in the discussion of these Veto Resolutions and the proposal which they endeavour to embody when this very question and this very issue had not been prominently brought up. I go back to 1910, when the Veto Resolutions were proposed. On April 24th, 1910, there was moved an Amendment to the Veto Resolutions, before ever the Parliament Bill was founded upon them, to exempt Home Rule specifically from the operations of them. The Opposition all voted for it, and, what is just as much to the point, we all resisted it.

I take the next point, when this time last year an Amendment to the Address was put down in the name of one of the hon. Gentlemen who represent Salford, and he actually, in that Amendment to the Address, referred to Home Rule "as an object, the attainment of which is openly avowed as one of the main reasons for altering the existing Constitution." Openly avowed! Hon. Gentlemen opposite are quite at liberty to say Home Rule is a very foolish proposition, but they must excuse me for saying that if they come down here and take this preliminary objection why the cause of Home Rule should not be heard, those of us who are acquainted

with the Courts will begin to suspect that they are like most other persons who take preliminary objections, namely, that they have nothing to say on the merits. Let me take the next fact. When the Parliament Bill itself was introduced, it is in the memory of all of us, a specific exemption was moved by the official Opposition in the interest of excluding Home Rule, and again they all supported it, and again we all rejected it. The Bill went to the House of Lords, and the House of Lords, amongst its other modifications, proposed a modification in the same sense. The Bill came back here and again we rejected it; and finally, in the very pinch of the Parliament Bill controversy, at the moment when the right hon. and learned Gentleman (Mr. F. E. Smith) was not for the moment on the best of terms with all the other occupants of the Front Bench opposite, the reason and the overwhelming reason in the mind of the leaders of the Conservative party why the die-hards should not die was this, that if they did die, what would happen to Home Rule? The truth is there never has been a more amazing piece of make-believe than that this House and the country and the community at large did not perfectly understand for good or for evil

that the Parliament Bill was, amongst other things, designed to carry Home Rule as the first object to which it was intended to be put.

The right hon. Gentleman referred in one of his quotations, and it is the only one I will deal with now, to the suggested inconsistency in the refusal of my right hon. Friend the Prime Minister to carry Home Rule in the situation such as existed in 1893. Well, I will leave my right hon. Friend to deal with that at such length as he pleases, but I make this one observation, and anybody who fairly studies the situation can judge it. The situation to which the right hon. and learned Gentleman referred was a situation in 1893 when the majority returned by Great Britain was opposed to Home Rule and when the majority against Home Rule in Great Britain could only be counteracted by bringing in the vote of the Irish party. It was a situation in which there were, I think, 315 Unionists in this House and 274 Home Rulers from Great Britain. The situation in this Parliament is exactly the reverse. The situation at this moment is that a majority of the representatives of Great Britain in this House declare themselves in favour of Home Rule.

LORD HUGH CECIL : Are they independent ? That is the question.

SIR J. SIMON : I will deal with that. Does the Noble Lord suggest that the majority from Great Britain is not an independent majority ?

LORD HUGH CECIL : If the Government do not do what the Irish Members want they will be turned out.

SIR J. SIMON : Who will turn them out ?

LORD HUGH CECIL : The Irish Members will wait for an opportunity when they can conscientiously agree.

SIR J. SIMON : I do not want to repeat the question if the Noble Lord thinks he has answered it, but I submit to the judgment of the House that he has given no answer. The only terms upon which this Government can be turned out is if——

LORD HUGH CECIL : If they do not support the Irish.

SIR J. SIMON : The only terms upon which the Government can be turned out is if the Irish Members vote with you ! I thought high constitutional doctrine demanded that in these matters the Irish vote did not count. I thought your full-blooded Unionist was a man who said, " An Irishman shall have no Assembly in his

country where he shall be represented. This is the only place to which he shall come, but when he comes here he does not count." The real truth is that this contention which the Noble Lord has just put is another of the make-believes which form so large a part of the stock-in-trade of the Conservative party, and which go so far to explain, if I may respectfully say so, their singular want of success in the country. They tell the sober British electorate that the Constitution is bursting to pieces. Nobody believes them. They tell the sober British elector that the country is in the midst of a revolution; he knows it is not true. Their most characteristic exponent in the Press, who, until recently has been content with giving us doses of hysterics every Sunday, has now gone further and gives us an epileptic fit every twenty-four hours.¹ I say, with great respect to hon. Gentlemen opposite, this is not the way to win elections. The British people are much more sober and moderate people than those who appeal to them in this way day after day, and this language of exaggeration in the mouths of hon. Gentlemen opposite goes a long way to

¹ The editor of the *Observer*, who was a vehement opponent of Home Rule, had recently assumed the editorship of the *Pall Mall Gazette*.

explain why the constituencies will not support them.

MR. F. E. SMITH : We are a larger party than you are.

SIR J. SIMON : If the right hon. Gentleman is content with his present position, so am I.

Now, Sir, the last and the most grievous of these make-believes, which, as I think, we of the Liberal party have some reason to complain of, is that which is at the bottom of the interruption of the Noble Lord the Member for Oxford University¹, and which is at the bottom, at any rate, of one of the objections of the right hon. and learned Gentleman (Mr. F. E. Smith). It is the suggestion that when we bring forward as we do our Home Rule policy, we are doing it, not from conviction or conscience, but as the result of a discreditable job. The association of the Liberal party with the policy of Home Rule is too long and too deep to be touched by such taunts as that. For a quarter of a century this party has been a Home Rule party. For a quarter of a century at every election and in every one of your newspapers you have denounced us as "separatists." For a quarter of a century you have claimed the name of Unionists, just in order

¹ Lord Hugh Cecil.

that you might wrap round yourselves your mantle and thank Heaven you are not like those who are Home Rulers. On Home Rule the Liberal party was split in 1886, and it endured twenty years in the wilderness because it had been devoted to that idea.

VISCOUNT WINTERTON¹: And you will be there for twenty years more.

SIR J. SIMON: We lost when Home Rule became the Liberal policy many who had hitherto belonged to the Liberal Party. We do not doubt they left us from motives of sincerity, and that it was a real sacrifice they made. We make no insinuation against the honour and good faith of honourable men. The right hon. and learned Gentleman the Member for Trinity College, Dublin (Sir Edward Carson), at a date and in circumstances not precisely ascertained, abandoned the amenities of the National Liberal Club. But on our side we are entitled to claim, and we do claim, at any rate, the treatment which honest people maintaining opinions they have long held, should receive from honourable men. We shall bear with great composure the taunts hon. Gentlemen opposite level against us in this regard for two reasons—first, because it is only one more

¹ Now Earl Winterton.

proof how utterly they misunderstand the real mind and temper of their own countrymen ; and, secondly, because we believe that the golden moment which was spoken of by Mr. Gladstone twenty years ago has returned, and it will be our consolation and satisfaction, in spite of the taunts of hon. Gentlemen opposite, at length to effect by a tardy measure of justice a real reconciliation between the Irish and the British people.

VI

WELSH DISESTABLISHMENT

[The Established Church (Wales) Bill was introduced by the Liberal Government on April 23, 1912. Like the Home Rule Bill, it was passed by the House of Commons three times, and, being rejected by the House of Lords, ultimately became law under the Parliament Act on the same date as the Home Rule Bill—September 18, 1914. Under the Suspensory Act, 1914, the coming into operation of the Welsh Church Act was postponed till twelve months after its passing, or such later date as might be fixed by Order in Council, but not later than “the end of the present war.” But under the Welsh Church (Temporalities) Act, 1919, the date of the disestablishment of the Welsh Church was fixed for March 31, 1920. The following speech was delivered by Sir John Simon, who was then Attorney-General, on April 20, 1914, on the Second Reading of the Bill during its third passage through the Commons.]

MR. SPEAKER,—The two powerful speeches which have been delivered this afternoon, in moving and seconding the rejection of the Second reading of this Bill, strike me as more remarkable for one feature of the case which they almost entirely omitted to deal with than for the elaborate collection of considerations which each speaker put forward. The hon.

Gentleman¹ who seconded did not, so far as I heard him, refer to one matter at all, which, in the view of those who promote this Bill, is the most important and the most fundamental of all the facts involved in the discussion, and that is the verdict of Wales and the view which the Welsh people have again and again expressed on the very subject with which this Bill deals. It is true that the Noble Lord opposite (Lord Robert Cecil)² did make a passing reference to this aspect of the matter, but he will forgive me for saying that I think he obviously regarded it as not the most important feature of his speech, because he said that he was not sure whether there were twenty-one or thirty-one supporters of Welsh Disestablishment from Wales and Monmouthshire. There are thirty-one out of thirty-four, and ever since two generations ago, when the second Reform Bill gave Wales some opportunity of expressing, through its representatives in this House, its real feelings, there has never been in any Parliament sitting here at Westminster any other representation on this subject from Wales than an overwhelming majority in favour of Welsh Disestablishment.

Let the House observe how really significant

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that circumstance is. In other parts of Great Britain you have had varying electoral representation according as the interests of the time changed. Here in England we have seen the change of majorities in this House and the fluctuating influence of peace and war. We have at one time had great Conservative accessions of strength, and at another time the Conservative tide has receded and the Liberal flood has come in its place. All these changes, which we English Members know to be essentially characteristic of our Parliamentary institutions here, are substantially quite unknown when you come to the representation of Wales as regards this question. Let me remind the House of how striking the facts are at this moment. There are returned to this House from Wales and Monmouthshire three Members who are opposed to the principle of this Bill, and their combined majority, if you add the three together, comes to 356. The remaining members from Wales and Monmouthshire, as far as my own calculations show me, have an average individual majority of something like 2,000—I am told it is nearer 3,000. There are nine or ten of the seats which are uncontested, and it is a perfectly absurd proposition for anyone who knows the electoral conditions in

Wales to suppose that any Liberal candidate in any corner of Wales would be proposed, adopted, recommended, or voted for unless he proclaimed himself in favour of Welsh Disestablishment.

There is not a single constituency in Wales or Monmouthshire which has not been represented in recent years by a supporter of Welsh Disestablishment, and yet we are constantly being told, I am sure with sincerity, by those who oppose this proposal, that if we will wait a bit circumstances will change. We have been told that again and again. We were told it by Lord Randolph Churchill at the time of the first Disestablishment Bill, and the situation in this House at this moment is that thirty-one Welsh Members are returned in favour of this Bill, and that is exactly the electoral situation with which Lord Randolph Churchill was dealing. You may say that that situation is irrelevant to the argument. You may say that the opinion of Wales has nothing to do with it, but assuming you start from this principle, that some regard must be paid to the persistent and reiterated demand of the people of Wales, as expressed through their representatives, then it does surprise me that the Noble Lord and the hon. Member opposite, in the course of their

exhaustive treatment of this matter, should find that this aspect of it is so comparatively unimportant.

The Noble Lord finds some comfort, in the face of these extremely inconvenient figures, in a recent petition. He is quite right, of course, to call attention to that which has been with so much labour and care collected and presented, but I confess that I prefer for this purpose the verdict of the ballot, which is secret, to any petition, however honestly or carefully it may be organised. The Noble Lord read a letter which he had received from a correspondent, and he said he could not give the writer's name—and I do not complain of that—which he thought added to the claim which this petition might make upon fair-minded men. It so happens that since I came to the House this afternoon I got a letter, and I propose to read a portion of it. It is from a gentleman whom I do not know personally, though I know him by name. He is at present a rector in a rectory in a church in Wales. He was for many years before that a vicar in a somewhat important church in a Welsh county town. He says :

“ I am quite convinced that a majority of the Welsh clergy to-day are quietly in favour of the Disestablishment Clauses of the Welsh Bill, and will welcome it when

it becomes law. And regarding Disendowment, if the leaders of the Church party would only accept the Government's offer of commuting life interests, the loss would readily be made up by Church people, and the result would be a message of peace to Wales, and a blessing to the Church, as a spiritual institution."

I recognise that it is distasteful for a man who is not a Churchman, as I am not, ever, of his own motion, to put forward the argument that Disestablishment is going to be a benefit to the Church. But I am reading the letter of a Churchman and a rector—a man who holds, and to my knowledge has held, important positions, and discharged them with dignity, in this very part of the country. Then he goes on about the petition. He says :

"The Nonconformist petition is not a genuine expression of the real feelings of the Nonconformists of Wales. In rural districts in this county it has been worked up by Conservative landlords and agents ; and many parsons, and hundreds of poor, innocent, conscientious Nonconformists have signed the petition in order to protect themselves and their homes, their wives, their children, and their relatives have likewise signed for the same reason. It was not a spontaneous or voluntary move on their part, and Nemesis will certainly follow at the next election."

I certainly do not allege that these people who have thought it right to organise this petition have been deliberately and systematically engaged in mere gerrymandering, but I think I

am entitled to submit that a petition drawn up at a time of keen feeling and acute controversy, at a time when the more religiously a man regards that controversy the more likely he is to feel that almost anything is justified in order to protect the view which he holds—I do most sincerely submit to the House that this petition of 103,000 persons, who are careful not to say that they oppose Disestablishment, but who are supposed to be signing a document against the Disendowment Clauses, cannot stand in the scales as against the persistent, reiterated and emphatic demand made in this House, Parliament after Parliament, through the Parliamentary representatives of a perfectly loyal, constitutional, law-abiding people, who say “this is a matter which affects us, our own lives, the conduct of our own affairs, and we demand from the British Parliament that they should render to us this measure of justice in the name of religious equality.”

Just suppose that such a demand were made in this House by representatives in similar proportion—not from this little nationality, not from an area which sends to this House, all told, only 5 per cent, of the 670 Members here—but supposing it was made in the name of England. Supposing it were true that in one recent

Parliament there had been an absolutely unanimous English representation here, claiming the disestablishment of the Church of England ; supposing it were true that for the rest of the time there had been a majority of ten to one of English Members in favour of such a proposal, does anybody suppose that if that had gone on for a generation, for two generations, it is conceivable that such a demand would not by this time have been granted ?

But it is not enough to observe the plain electoral fact that for a generation there has been this overwhelming demand from the people of Wales. You must go further, and ask why that has happened. What is the cause of this almost unexampled demand, a demand which is, indeed, in its unity and persistence, quite unparalleled, except in the case of Nationalist Ireland ? There is this distinction. Whatever may be said of Ireland, there is no Ulster in Wales ; in no corner of the Principality can you find an exception to the general rule in anything like the same degree.

If you ask that question, “ How comes it about that in its political representation Wales has for so long made so pronounced and emphatic a claim in this direction ? ” you must recognise,

every fair-minded man must recognise, that some of the explanations that might conceivably be offered are not the true explanations. I have heard in these Debates more than once the suggestion that really this claim for the Welsh Disestablishment Bill is merely an indication that the Welsh people are inspired by hatred, malice, and all uncharitableness. I am certain that no argument which inflicts that cruel reflection upon the mass of the nation is ever going to receive a welcome in the British House of Commons. More than that, it cannot possibly be said to be due to any want of religious feeling in the Welsh people as a whole. The hon. Gentleman¹ who spoke last drew a picture of what he feared might happen if Disestablishment were carried. He spoke of a community which was denied an Established Church sinking to the level of a great insurance office or a great joint stock company. Does anybody allege that the history of the rise of Non-conformity in Wales and the regrettable history of the apathy and lethargy of the Church in the past has anything to do with the fact that materialism makes an undue appeal to the Celtic temperament? There is no part of the United Kingdom where in the outward and daily

¹ Mr. (now Sir) Samuel Hoare.

practice of religion—as regards its inward practice no man can tell—where, as regards its outward, organised, systematic practice, you find so strong a flood of religious feeling constantly expressing itself and pouring itself forth as you do in the Principality.

I speak on this matter with some little personal knowledge, because I am half a Welshman, and the whole of my youth was spent in the very midst of the tradition of Welsh Nonconformity. Really, if I may say so with respect, English Churchmen do not altogether appreciate the intensity, the fervour, and the universality with which the practice of religion in the home, in the Sunday school, and in preaching meetings up and down the country-side of Wales operates. This shifting away of the Welsh people from the Established Church has, therefore, nothing in the world to do with irreligion or materialism in Wales. Neither, as I believe, has it anything at all to do with some deep doctrinal difference. Nonconformity did not arise in Wales because there was some fundamental difference in point of doctrine, or in point of ritual between the Established Church on the one hand and those who dissented on the other ; not at all. It was not, in point of fact, due to a Puritan movement, because, broadly speaking, though the Puritan

movement had a great influence in England it did not succeed in Wales. It was not due to some different conception of Church policy. It was not, if I may say so respectfully to my hon. Friend below the Gangway who just now seemed to differ from me, due to the fact that there was some difference of theory as to the connection between Church and State in the Principality of Wales from that which obtained in the rest of the country. That was not the cause.

If you search for the cause you will find it beyond all doubt and question in this single circumstance: Nonconformity arose in Wales owing to the failure of the Church of England to do its duty. It arose in Wales not to counteract the efforts of the Establishment, but, on the contrary, to supply the deficiency which the Establishment had failed to meet, and which it had its Endowments for the purpose of supplying. If one were to refer to that simply for the purpose of saying, "And therefore the Church of England must suffer for it now," the argument would be false, and I think it would be very wicked and absurd. But you must trace back that piece of history in order to ascertain whether the deep division between the mass of the Welsh peasantry to-day and the Established

Church is due to some temporary accident, to some passing fancy, to some influence which time is likely to change, or whether it is due to something far more deep-seated and far more certain to endure. If it could be reasonably argued that the Welsh nation is likely to be carried back to its old position in relation to the Church, I, for my part, think that would be an important consideration, and one which it would be very fair to weigh in the balance against this Bill. But I believe it can be shown, and shown conclusively, by anybody who really knows the history of the Welsh Nonconformist movement for the last one and a half or two centuries, that those who imagine there is going to be a filling up of this gap between the Welsh peasantry on the one hand and the Established Church on the other as the national church of the country are really dreaming vain things.

I start with 1662, and I noticed with some interest that the Noble Lord¹ also made a reference to 1662, and a very significant and important reference it was. He told us that he relied upon the Act of Uniformity of 1662 as giving, or, at any rate, confirming, a Parliamentary title in the Episcopal Church to those Endowments which it might or might not be said

¹ Lord Robert Cecil (now Viscount Cecil).

at an earlier time had come to it when it had no rival, and he went on to say, and there was some force in what he said with regard to England, that by 1662 the distinction between the Church of England on the one hand and Nonconformist bodies on the other was perfectly well understood. It was in England, but does he mean to say that it was in Wales? The very date which the Noble Lord chooses as the date with which to begin the historic argument is the date with which I am content to begin. I am content to wipe out anything which happened in the history of Nonconformity prior to 1662. If you trace it you will find that, calculated from that time, the stream began to diverge, and there was more and more of the national life flowing into the stream which was Nonconformist in its tendency. One of the first things that happened in Wales after the Act of Uniformity—it happened, of course, also in England—was the inability of a certain number of ministers to accept that Act, and to remain within the Church. But the really important thing in the history of Welsh Nonconformity comes later. It comes in the second quarter of the eighteenth century, and it is quite true that the names which the Noble Lord read out—which have been familiar to me from

the time I was a child, but which Welshmen here know infinitely better than I do—are the names of persons who were themselves Churchmen, many of them indeed clergymen in the Church of England.

How does it come about that they are revered to-day by the mass of religious Welsh peasantry as the founders of the Nonconformist movement in Wales? It comes about for this simple reason: Men like Griffith Jones and Howell Harris were Churchmen. Griffith Jones was, I think, a rector in Carnarvonshire. He started the Welsh revival, as remarkable a movement in its religious fervour and enthusiasm as ever occurred in Europe. He started the Welsh revival because he found that under the teaching of the Established Church in Wales all religious thought and emotion were dead. He was persecuted by the very people who ought to have been the first to have recognised his sincerity. He was pilloried by his brother Churchmen, and for twenty years he suffered in the Ecclesiastical Courts of the Principality. The next Nonconformist leader who comes in my Saints' Calendar, Howell Harris, was a man born of Church parents who was destined for the Church, and who was denied Orders simply and solely because he was prepared to go about in the highways

and hedges preaching in open places and invading other peoples' parishes. If the Noble Lord will look again at the well-known textbooks on this subject—there is a good one by Dr. Rees, and a very well-known book by Mr. Jones—he will see that as this movement went on, two things happened. In the first place, it gathered great force and volume. The Welsh people, who are an emotional people, and a deeply religious people, regarded these leaders as persons who had saved the soul of the nation, and by the middle and end of the eighteenth century it would be grotesquely untrue to say of Wales what the Noble Lord said was generally true of these islands, that the eighteenth century was a time when there was general apathy.

LORD ROBERT CECIL : The right hon. Gentleman is perfectly right. I should have said at the beginning of the eighteenth century.

SIR J. SIMON : That is only one of the results that followed. The other thing which happened, and which certainly any man who has had an English training and education and who goes back to Wales recognises perfectly, is this. I do not know whether it was always there or whether it was due to the influence of these great leaders of religious thought in Wales. But

I make the avowal for what it is worth. The Celtic temperament in the rural parts of Wales is not particularly easy to approach by the stately methods of the Established Church. Let any loyal Churchman consider how the Welsh practice strikes him. If he is candid with himself, he will admit that there is much in the ordinary religious practices of Wales to-day which offends his sense of what is proper and decent. What is the real character of Welsh religious worship as I have known it, and as many hon. Members here have known it? There is the universal practice of impromptu prayer; there is the very great emphasis laid on sermons and the preponderating importance attached to preaching. You do not get one sermon preached, you get a whole series of sermons, one after the other. There is the open avowal of private religious experience. There is the immense fervour, some would say the excessive fervour, of religious enthusiasm. There is the definite rejection of what may perhaps be described as sacerdotal mediation. It is clear, is it not, to any fair-minded English Churchman that these features do not strike him as the natural and appropriate way in which he, as a member of the Church of England, likes services to be conducted. What is true

of the attitude of estrangement with which English Churchmen look at these practices in Wales is certainly equally true of the view which the ordinary Nonconformist peasant takes of the practices of the English Church. He speaks with complete respect of them. I believe it to be a gross libel to say that the Welsh Nonconformist is a man who spends his time in abusing and libelling the Church of England. But this is true: The dignity of episcopal methods and the solemnity of them are very easily misunderstood by that hot and impetuous population as coldness and mere formality, and it is that feeling, which has been driven into the structure of Welsh society, which makes it perfectly hopeless to suppose that it is going to be removed and made as though it never had been as the result of some further postponement of this reform.

It does not stop there. Those leaders of the Welsh Nonconformist movement so completely represented Wales that they became something besides leaders of religious thought. The whole national movement in Wales is bound up with them. The Church of England is well entitled to say that whatever may have been her deficiencies in the past, she shows herself, in the language of Mr. Gladstone, a "growing and

living Church " to-day. But from the point of view of the loyal supporter of the Established Church in Wales, What is Wales? To him Wales is but four dioceses in the Province of Canterbury. That is what Wales is to him, and it is for that very reason that the Noble Lord finds that one of the most terrible features of this Bill to be the mutilation, and lopping off, of a portion of the Province of Canterbury from the rest. Hon. Gentlemen are perfectly entitled to say that, but it is wholly inconsistent with the Welsh national view. You do not meet the aspirations of a Welsh Nationalist by telling him that he lives in that part of England which consists of four dioceses in the Province of Canterbury. Just as those religious teachers who started the Nonconformist movement in Wales in the eighteenth century gathered more and more force in the religious sphere, so the inevitable consequence was that they and those who follow them, and were associated with them, became involved in the whole national movement in Wales. It is true, and it is admitted by Churchmen generally, that it is in these Nonconformist bodies, in the different departments of social life, that you find the natural leaders of Welsh opinion. There is a

well-known statement made by Dean Edwards to the Church Congress, to the effect that :

“ For one hundred and fifty years every teacher whose name lives in the hearts of the Welsh people has been, almost without exception, a Nonconformist.”

If you take the leaders of the Welsh political movement, you will find that they are almost to a man Nonconformist. Take the leaders of the Welsh Labour Party. They are people who first learned the power to lead their fellows in religious exercises in Nonconformist chapels. Take the movement for education in Wales, whether it be the Elementary Education Act of 1870, the Intermediate Education movement later on, or the foundation of the University in Wales. It is not the fault of the Established Church, but it is inevitable in her position that she should be continually, to the appearance of the average Welsh Nationalist, resisting the national movement and denying national claims, for it is the essence of her position that she is in Wales merely as part of a greater whole. Let me quote a passage from Sir Harry Reichel, who is not only a distinguished scholar, but the head of the University in North Wales. He described what was the impression produced on his own mind by the development of the Welsh

University, and the way in which Nonconformists in Wales were catching up any advantage which had previously attached to the old Church College at Lampeter. He said :

“ When I first came into Wales Lampeter turned out a better type of man, take him all round, than the best of the Nonconformist colleges. The positions are now reversed. At present the Lampeter men are quite out-classed by the students of these colleges who enjoy the full advantages of the new system. What has happened in the interim ? The great educational movement. The Nonconformist colleges have brought themselves into line with this movement. Lampeter stands where she did. No one who has not been brought into close contact with their students can realise the degree to which the whole intellectual position of these colleges has been raised and strengthened by that reconstruction. We are, indeed, if things remain as they are in Wales, within measurable distance of a time when theological learning, even in a subject like church history, will have to be sought, not in the church parsonage, but in the Nonconformist manse. Where in Wales must we seek for the true home of theological learning and research in future, if the conditions remain unchanged ? Not in Lampeter, but in Bala, Bangor, Aberystwyth, Brecon, Cardiff, Carmarthen. Who will be the future leaders of theological thought in Wales ? Not the clergy of the Church, but the ministers of the Nonconformist denominations.”

I assure the House I do not read that extract with any desire to claim superiority for those with whom I have a natural sympathy. I read it to illustrate this argument, which I

believe is a true one, that the division, which can be traced back to 1720 or thereabouts, and which began with the immense religious revival due to Griffith Jones and others, has led to-day to such a separation between the Welsh national spirit on the one hand, and the Established Church on the other, that it is perfectly idle to suppose that the antagonism will not continue. What a ridiculous position it is in which the matter is now left! Here is a Church which by common admission—by the frank admission of those who do not belong to it, as well as by the claims of those who do—has made most strenuous efforts, and has been engaged in most devoted work, which claims to be the national Church of Wales, and yet, whatever your statistics show, they show that the greater part of the Welsh nation repudiates its claim! The hon. Gentleman who spoke last told us that, in his view, the passage of this Bill was really going to produce increased bitterness. Will he not have enough imagination to perceive that there may be bitterness existing now, and that there is something repellent to most Welsh people in the present situation? Is there not some comfort to be drawn, even by him, from the fact that the supporters of this Bill are just as sincere and as convinced to-day as were the people

who, in 1869, declared that the Disestablishment of the Irish Church would be in many ways for the good of the Church in Ireland? Or is the view that was put forward against the Irish Bill in 1869, the view which ought still to prevail? I was thinking of what was said of that measure by Lord Plunket, the Archbishop of Dublin, who was a bishop in the Episcopal Church of Ireland at the time when Disestablishment took place. Twenty-five years afterwards, Lord Plunket, speaking of his experience of Disestablishment said :

“ When I try to hold the balance evenly, and to weigh the losses and the gains as a whole, I say boldly and without reserve that the gain outweighs the loss.”

I will not detain the House many more minutes, but I wish to say a few words on the Disendowment part of the Bill. The proposition as I would seek to state it is this : the case for Disendowment does not in the least depend on an accurate and precise historical judgment as to the origin of tithe. All I would venture to say about tithe is that it is an exceedingly obscure subject, and though I find that the evidence, so far as it goes, appears to support the views put forward from this side, I do not think the argument is very essential to the case.

The essential thing is to distinguish between

the position of the mediæval Church and the position of the Church as it is to-day. No argument about the continuity of the Church can possibly obscure the importance of this distinction. Whether you regard the ambit of the Church, or whether you regard the functions which it actually performs, the mediæval Church was in a perfectly different position from the Church of England as it is in Wales to-day. The mediæval Church was universal ; it was unrivalled ; it was co-extensive with the whole community ; and it held in respect to the whole community very effective pains and penalties for compelling conformity and compliance. It is no exaggeration to say that it was, in the true sense of the term, the community in its religious aspect. When one says " the Church," and speaks of its endowments, it would be more accurate to speak of the whole assembly of capitular, episcopal and parochial corporations which have apportioned between them the different properties of the Church. I am unable to suppose that all these ancient Endowments always represent voluntary benevolence on the part of pious donors—I rather question whether they were always so voluntary or quite as pious—still, those who are concerned to argue for their retention are well within their

rights when they say, "Here is a prescription which is long enough as compared with the prescription ordinarily required in English law, and they have had possession of these things for a great length of time." That is quite true. But when it is said that this money was given to the lineal ancestor of the Church of England in Wales to-day, one is compelled to point out what is the fundamental distinction. It was given to the mediæval Church. I do not know any other body existing in the Middle Ages to which money could be given, if it was desired to provide for religion, or for charity, or for education and the like.

To-day the Church which claims to be, and perhaps rightly claims to be in some sense, the strict descendant of that mediæval Church, is not a Church which is co-extensive with the community. It is not working unrivalled and alone in the sphere of religious needs, and it is not and cannot, in any real sense, be said to be the whole community in its religious aspect. Once that difference is realised between the mediæval Church on the one hand, which had the exclusive claim because there was no one else to claim it, and its modern representative on the other hand—which admits that there are other religious bodies which

are its spiritual equals, working in the same direction as itself—how is the argument met, that in these circumstances some measure of Disendowment is fairly called for? It is said, in the first instance, that you are dealing with this as if it were national property, but that it is not national property, but property which belongs to this or that ecclesiastical corporation. If we are going to quarrel about the appropriateness of an adjective, I am not going to say that in some senses it is national property. But it is not private property. It was not property given to the persons who received it to spend at their own will and pleasure. It is public property in the sense that it is held on trust for public purposes.

LORD ROBERT CECIL: I said charitable purposes.

SIR J. SIMON: Be that as it may, the broad difference surely does exist in fact between the claim which the mediæval Church had as it existed in the Middle Ages and the totally different claim which may fairly be put forward on behalf of the Church now. It is said that if this argument is worth anything it is an argument in favour of concurrent Endowment. I know perfectly well why hon. Gentlemen opposite put that argument forward.

It is not that they really approve of concurrent Endowment. Even to-day, the Church in Wales, although the greater part of its Endowments is in the hands of a small portion of the whole, and although the greater part of the Church in Wales would be very well off with some of that money, it has never pooled its Endowments. It has never done, even within its own borders, what might be done in the name of concurrent Endowment. If it is once fairly established that these ancient funds were given in trust in order that they should be used for parochial purposes—I doubt not for religion first and foremost, but also for the services of the poor, for the relief of the sick and for education—I cannot understand the state of mind of hon. Gentlemen opposite who, outside this House, if not in it, raise cheers in their church defence meetings, simply by saying, “This is robbery.” [HON. MEMBERS: “Hear, hear!”] If hon. Gentlemen think so, I can only say once again that they are back in 1869, when exactly the same thing was said, and when it was said in the face of some, at any rate, who spoke with unquestioned devotion to the Church, and said in spite of the rebuke of some of the leaders of the Church.

There are conditions, as it seems to me, which it would be quite fair to require to be observed in any measure of Disendowment accompanying Disestablishment. I would name three: In the first place, it is clearly right that one should protect all existing life-interests to the full. In the second place, one must distinguish sharply (and this Bill does distinguish most sharply) between ancient endowments, on the one hand, and modern endowments on the other. I do not know whether anyone will suggest that if that task is to be undertaken the year which we have chosen in this Bill is not the appropriate year. There is one other condition I would lay down. Of course, if hon. Gentlemen are right in regarding any measure of Disendowment as in itself wicked and wrong, then plainly there is no justification for leaving 19s. 11 $\frac{3}{4}$ d. to the Church when the Church is entitled to £1. But, for those who think that some measure of Disendowment is reasonably justified by the circumstances, I would lay down this condition: the terms should be terms which are fair and moderate to the utmost degree. I do not believe there has ever been a scheme of Disendowment in that respect which could truly be said to be more moderate than the scheme which we propose.

It is because I find that this Bill does conform to those principles that I commend it to the House, and invite the House to give it a Second Reading. This, Sir, will be the fourth time that the Second Reading of a Welsh Disestablishment Bill has been carried in this House by a great majority. Hitherto, whatever has been the majority secured for it in the House of Commons, however persistent the demand made for it from Wales, those who have defended the other point of view have been very confident of the protecting hand of the House of Lords. That is not so any longer. This Bill, as I trust, when it leaves this place, will find its way without undue delay to the Statute Book, and, while this is a matter of very bitter controversy in which I perfectly appreciate the depth of feeling which is roused on the other side, I would beg hon. Gentlemen to believe that those who are promoting this Bill are convinced, as I am convinced, that it is a duty which we owe the people of Wales to carry this Bill into law.

VII

THE REVISED PRAYER BOOK

[The following speech was delivered in the House of Commons, on December 15, 1927, in the course of a debate on the Prayer Book Measure, 1927. The Measure was rejected by 238 votes to 205, after being carried by the House of Lords, the previous day, by 241 votes to 88. In the following year the Prayer Book Measure was again brought before the House of Commons, where it was again rejected, the voting on the second occasion being 220 for and 266 against.]

MR. SPEAKER,—The speeches which have already been delivered in this Debate have set a standard which, if it should be maintained, will make this occasion memorable not only in the history of the Church of England, but in the history of this House. Like some who have already spoken, I have felt, and do feel, the greatest possible difficulty and distress because of being called upon to cast a vote on this occasion. I hold most deeply by the view that any attempt to interfere with free judgment in matters of religion is a denial of human rights and is an attempt to enslave

the spirit of man. To me, at least, the attempt to exercise authority, to dictate what people should believe, whether that authority be exercised by Parliament or by priest, is equally abhorrent. In communing with myself how I ought to act on this occasion I have asked myself this question : " How can I, who hold so firmly by this right of private judgment, refuse to recognise the right of the Church Assembly to judge, and to pronounce on behalf of those for whom it speaks, how best their forms of worship may be framed and conducted ? "

I assure the House that to anyone who approaches these deep matters from the point of view which appeals to me, it is with a feeling of the acutest distress that I contemplate the possibility of rejecting the appeal made on behalf of the Church of England by the Church Assembly and by its Episcopate. And, as I must be entirely frank, I ought to add that my difficulty is increased by the fact that my own religious convictions are not, I think, of a very orthodox character. It is in the last degree repellent to anybody like myself to push in to pronounce a view or cast a vote on this matter. But I am here as a citizen, and as one of a body that has got a constitu-

tional duty of deciding—not, if I may respectfully presume to say so, in the interests of the Church, but in the interests of the whole nation—as to whether this proposal in this form should here and now receive our assent.

I am one of those who think that something very important happened at the time of the English Reformation, and I know from the stock from which I have sprung, and the people who have now passed away from whom I gained my first impressions, that there is a great, silent body of decent people in this country who have continued to acquiesce in the Establishment of the Church of England upon the sole ground that it was a reformed Protestant Church. No doubt the English Reformation was very largely a political act, an act of statesmanship. There is no doubt about that, but, after all, it represented then, and it still represents, the broad view of a great mass of ordinary citizens. The Noble Lady the Member for Southend (Countess of Iveagh) said that the result of a recent by-election had some significance in guiding the House as to how they should vote on this occasion. I think that the principal Government spokesman who went to assist the Noble Lady at that by-election was my hon. and

learned Friend the Solicitor-General.¹ I am sure the Solicitor-General will be very much astonished to know that in the persuasive and powerful oration which he on that occasion delivered, he was providing proof that the electors of this country desire us to pass this Measure. That is only an illustration. The thing we have always got to keep in mind when we consider this question is that, apart from those who are the convinced and active supporters of the Church of England as by law established—apart from those who, although they do not go regularly to church, go to the Established Church if they go at all—there is a great mass of people in this country who have the most friendly feeling towards Churchmen and Churchwomen, but who continue to acquiesce in the Establishment of the Church of England only because they have been satisfied that it is a Protestant Reformed Church. I have the duty of considering how they regard this matter, and not solely how Churchmen and Churchwomen who support the Revised Book regard it. It is evident from the most moving and eloquent speech, made earlier by the Home Secretary² that the great body for

¹ Sir Thomas Inskip, who was one of the leading opponents of the Prayer Book Measure.

² Sir William Joynson-Hicks (now Lord Brentford).

whom he speaks feel aggrieved. But I want to call attention to the fact that there is a great body of non-Churchmen in this country who have acquiesced in the Establishment of the Established Church precisely because they hold the fundamental view expressed by saying that the Church is a Protestant and Reformed Church.

In that situation what is to be done? What is the circumstance, the main and guiding circumstance, which has caused the Church Assembly and the authorities of the Church at this time to bring this matter forward? The real cause, admittedly, is that, notwithstanding the comprehensiveness of the Church of England—the Noble Lady opposite pointed out most justly how admirable that comprehensiveness was—notwithstanding that, the leaders of the Church are in a position of the greatest difficulty as to how to deal with a body of people of saintly lives, deep convictions, and intense determination, a body of people claiming to remain as members of the Church of England who none the less refuse to accept the discipline of that Church. That is the truth about that. What is the good of spending time in suggesting that the dispute revolves about Prayers for the King? The rebellious

element in the Church is not rebellious in the sense that it will not recognise the authority of His Majesty, but it is rebellious in connection with the mysteries, the sacred actions and formulas which are connected with the Communion Service.

The real truth is that this crisis is one that has arisen because of indiscipline and revolt in that regard. What I wish to ask the House of Commons is this: Does anybody suppose that those people who in the past have refused to accept discipline and have insisted upon rebelling, have done so on some comparatively trumpery and unimportant point? Many of them are clergymen who at the time of their Ordination, and in the terms of their Ordination Service, vowed their loyal obedience to the Church of England as established by law. Is it a little thing that has caused them to feel that it is their duty to take up that attitude? I am perfectly certain that the thing which has caused them to take up that attitude is something which, as they hold, goes right down to the essential doctrinal significance of the service of Holy Communion. I do not profess to be able to discuss this metaphysical subject, and I speak of it with sincere respect, but no one will persuade me that a body of

men who have felt it to be their solemn duty to act during the last twenty or thirty years as this body has acted, to the distraction of all Church discipline, have done so on account of a little trumpery thing that can be got rid of by a slight revision of words. The only possible explanation is that to them it is a vital thing.

That being so, I ask myself, and I ask the House to consider, these two questions. The first is, does this proposed change inflict a real injury upon others besides those who desire it? Nobody can have listened to the speech of the Home Secretary and other speeches of that sort without appreciating that inside the Church of England, whether it is a minority or a majority, there is a substantial, reasonable, loyal body of people who feel themselves to be deeply aggrieved by what is now proposed. The question is, should the House of Commons assist in inflicting that injury upon them? After all, they have done nothing wrong. I will repeat what I believe to be at least as important, and I am speaking from my personal knowledge. I know that outside the Church of England, in the sort of home from which I came, there are quiet, simple people who, while they think that the Church of England

as by law established claims in some respects a superior position over Nonconformist bodies, yet in the cause of charity and good feeling have accepted that position as long as the Protestant basis of that Church remains. I invite my colleagues here to ask themselves that question, and to say whether the objects sought to be served here can be attained without inflicting very serious injury and injustice upon these other citizens.

The second question I wish to ask is this—I pay all possible respect to the assurances offered by His Grace the Archbishop¹ and the Episcopal Bench, but after all, what is the reason for supposing that this is going, in the words of the Noble Lady opposite who has just spoken, to “end an age-worn controversy”? If I could be convinced that this was going to relieve the Church of England from what must be a most terrible pre-occupation; if, indeed, it was going to clear the way for co-operation, good feeling, and true works of charity and religion, I would go a very long way to minimise other objections for the sake of securing that result. But what ground is there for thinking that? I know that a very large body of clergymen

¹ Archbishop Davidson.

of the Church of England, said to number 1,400, have already put on solemn record that what is now proposed will not heal this sore at all. This matter seems to me to raise this dilemma : I take no pleasure in putting it as a dilemma, but, of two things, one, and I want to know which.

Either the promoters of this new Book are doing nothing very drastic, are touching no material point of doctrine, are really contenting themselves with securing more appropriate words for expressing the same thing ; or they are really assisting and facilitating a doctrinal change. It is one or the other. If it be the first, if it be a comparatively small thing, then what is the meaning of suggesting that, if we pass this Book, we are going to produce peace in the Church of England, and, if we do not, we are going to create more bitterness ? It is attributed to the Bishop of London,¹ I think, that he said that this new Book secured all that the Anglo-Catholics had been fighting for for forty years. If that be so, then this is a very big change. But it seems to me to be quite impossible to come to the House of Commons and assure us that these things are mere matters of domestic adjustment, not

¹ Dr. Winnington Ingram.

concerning the ordinary citizen, the man who simply claims to look at this matter as a free man, living in a country which has established itself on a Protestant basis—it seems to me impossible to say that it is going to do these great things without seriously affecting that position. It would neither be very candid, nor indeed very plausible, to say that indiscipline will cease if you preserve, in all fundamentals, all the doctrinal stumbling-blocks which have caused indiscipline to arise.

I, therefore, with very great regret, feel that my duty here is, not to refuse to vote, but to vote against this Measure, and I would make these two observations in conclusion. The question, it seems to me, is not merely how the new Book will be expounded by loyal and moderate Churchmen. The question is not how the Bishop of Chelmsford¹ and other Churchmen would expound it. The question is, how could it, without absurdity and without exaggeration, be used by those who are anxious for still further extension in a Roman direction? That is the real question. My other observation is this: The Church of England at present is established in this country. I think that most of the arguments of a political kind in favour

¹ Dr. Warman (now Bishop of Manchester).

of the continued Establishment of the Church here have greatly weakened with the passage of time. In the old days, when this House of Commons consisted practically altogether of people who were practising and devoted supporters of the Church of England, it was fair to say that here Parliament was the Church in its civil, legislating aspect, and the Church was the nation in its religious aspect. That is not so to-day. We have admitted into the House of Commons Roman Catholics, Jews, Quakers, Atheists, as well as persons whose religion comes from the East. I am glad that it should be so ; but it does seem to me that there is now only one argument left that can fairly be put forward for continued Establishment, and it is this : The Church of England, as by law established down to to-night, can, at any rate, claim that it has provided, in every parish of the land, a parish church where all who seek consolation and assistance by its services may go, with the knowledge that they are going to get the same service. That is the meaning of the Book of " Common " Prayer.

I have often heard Churchmen and Churchwomen take pleasure, as they were entitled to do, in the thought that the very prayers and the very services which were going on in their

parish were at the same time going on all over the country. That is quite true ; but, as a matter of fact, once you establish this system of alternative use, with all its possibilities of abuse, you are really striking at the last remaining argument for episcopal religion in this country being established. I am not going to pretend here that I think it would necessarily be to the disadvantage of true religion if Disestablishment came, but it is quite clear to me that those who put forward these proposals are really putting them forward without first of all securing the condition, and the only condition, upon which they can properly ask the support of ordinary citizens. If you come here, whatever your body may be—Wesleyans, Episcopalians, what you please—and tell me that, in the deliberate conclave of your Church, you have come to the conclusion that you wish for some modification in doctrine, in trust deeds, or what not, you have a right to call upon every Member of the House of Commons to support you in the name of freedom ; but, as long as the Church of England is an Established Church, we are not only entitled, but bound, to hold that great body to the bond. If I, the son of a Free Churchman, say that in this matter “ I was free-born,” I am entitled to ask

the Church of England to consider whether it must not say "with a great sum obtained I my freedom." No doubt it involves a loss of dignity and status; no doubt it involves, in the case of a good many sincere people, something they think far more important. They think that this association in some way promotes true religion in our land. But I do not see how we here to-day, being trustees and inheritors of the historic Constitution of our land, are at liberty, merely because we are appealed to by one section out of the whole body of devoted Churchmen, to help them on terms which, it seems to me, inflict grave injury upon other citizens in this country in matters which are most vital to their belief and which would preserve the system of Establishment without regard to the Romeward tendency of this change of doctrine.

VIII

THE INDIAN STATUTORY COMMISSION

[The Government of India Act, 1919, provided for the appointment, after an interval of ten years, of a Commission to inquire into the working of the Act and to make recommendations as to any changes in the Constitution of British India. The date of the appointment of the Commission was advanced by an Amending Act, and in November, 1927, Mr. Baldwin, then Prime Minister, announced its proposed composition. It was to consist of seven Members of Parliament (five Commoners and two Peers), and Sir John Simon was appointed Chairman. Each House of Parliament confirmed the selection of the Commissioners, and the Commission, in the course of its investigations, paid two long visits to India, and ultimately issued a unanimous Report, in two volumes, in June, 1930.

After the return of the Commission from India and while it was considering its Report, an announcement was made by the Viceroy, Lord Irwin, that in the judgment of His Majesty's Government "it is implicit in the Declaration of 1917 that the natural issue of India's constitutional progress, as there contemplated, is the attainment of Dominion status." This declaration led to debates in both Houses, and in the Commons the Chairman of the Commission made the following speech (on November 7, 1929), which had the fortunate result, after a few words from Mr. Ramsay MacDonald, of bringing the debate to a close.]

MR. SPEAKER,—When the Indian Statutory Commission was appointed its members made for themselves a rule, which we have most strictly and faithfully observed, that none of us would take a part of any sort or kind in any public discussion that might arise about Indian affairs until our Report was made and our task was done. My colleagues and I have very anxiously considered whether even in the present circumstances it would not still be better that no one should say any word with the authority of the Statutory Commission. I think it was Francis Bacon who observed that “an over-speaking judge is no well-tuned cymbal,” and as we have been endeavouring to discharge, and intend to go on discharging, the duties laid upon us by Parliament, which are really of a semi-judicial character, the House may be quite sure that the few words I am going to say certainly will not promote heat, but are solely designed in great sincerity and soberness to serve the underlying purpose which all of us in this House must put in the front of our minds. If I knew of any part of this House, any bench which is reserved for Commissioners, any dock in which they might be put, I would be there at this moment with all my colleagues, for in this as in other matters

we are a completely united body. We have come to the conclusion that the Chairman should ask to intervene for a few minutes, not for the purpose of joining in any criticism, in any cross-examination, in any comment, or in any explanation, but simply to make sure—I hope very much to make sure in India—that the reserve which the Indian Commission imposes on itself is in no way misunderstood. Anybody who has any close experience of Indian affairs, anybody who has any real appreciation of the enormous responsibilities which rest on the shoulders of the Viceroy,¹ anybody who can estimate with knowledge the immense forces of mistrust and the opportunities of misunderstanding which it is the duty of all of us to try to dispel in India, will count, as I know this House always will count, any personal question, any little discussion as to whether “ A ” has acted quite consistently or as to whether “ B ” has managed a most difficult situation quite cleverly as dust in the balance as compared with the importance of Parliament acting together and in the right spirit in this matter. The Secretary of State²—it is due to him that I should say so—^{MS}

¹ Lord Irwin.

² Mr. Wedgwood Benn.

perfectly accurate when he said last week, in answer to a question, that in the matter of those words which have unfortunately raised this controversy, the advice of the Statutory Commission was not sought by the Government. I am not going further into that except to point out—and I hope that India will observe it—that the Commission is absolutely determined to do nothing which can be construed or misconstrued as the presentation of an interim Report. We are absolutely determined on that.

The Leader of the Opposition¹ has explained what happened. It is enough for me to say that, when for the first time the Commission were informed that the Government contemplated a statement on the subject of the Montagu Declaration, the Commission came to the conclusion that we desired, preserving our wholly independent and judicial position, not to be associated with any such statement, and I so informed the Secretary of State on September 24th. From that moment, any responsibility of the Commission in the matter ceased. It is, I think, really quite obvious, if the House will reflect, that the determination of the Commission to make no statement and to be associated with no statement which could

¹ Mr. Stanley Baldwin.

possibly be construed as dealing with matters within their terms of reference—their decision not to do that prematurely or in advance of the discharge of their duty to Parliament, is the only right decision which they could make. We shall, I hope, early next year report to the authority by which we have been constituted. What is that authority? Let me be perfectly plain. It is exactly two years ago to-morrow since the announcement was made in this House and the other House and in India that this Commission, with the concurrence of all parties, had been constituted. It is a statutory body; it owes its authority to the unanimous vote of both Houses of Parliament and to a Commission from the Sovereign. I may as well make it quite plain that our function as a Commission cannot be either enlarged or diminished by any declaration or statement made by anybody whatever.

The Statutory Commission, acting of course under the terms of an Act of Parliament, has a particular function which nobody seeks, which nobody in authority ever has sought either to enlarge or to diminish. Let me just point out this further, so that there shall be no misunderstanding. When the Commission wrote a little time back its letter making the announcement

—which I am very glad to feel has met with universal approval both in Britain and India—that we contemplated in our Report dealing with the extremely difficult question of the relations between the Indian States and British India, and went on to suggest that after we had reported the Government might think it well—as they do—to appoint a conference including representatives from both the States and British India, we were not inviting anybody to extend our terms of reference, and nobody knows better than the Prime Minister¹ that nobody in the House could extend our terms of reference. We were giving intimation, as our duty was, to the head of the Government that we thought that this course was the course which it would be proper to take, and we were indeed glad to know that the right hon. gentleman's administration and both political parties in Opposition—and, as we now learn, very large bodies of opinion in India—most warmly support that suggestion. If I might clear this point away once for all, I would venture to read to the House one sentence from a letter which I wrote on behalf of the Commission when we first reached India eighteen months ago, and when our position was not as well understood

¹ Mr. Ramsay MacDonald.

as it is now. It was in the time of the late Government. This was the sentence, and it was, I believe, read to both Houses of Parliament when we were in India, and was the subject of a great deal of comment and interest in India, and it states the true constitutional position :

“ The Commission is in no sense an instrument of the Government of India or of the British Government, but it enters upon a duty laid upon it by the King Emperor as a completely independent and unfettered body.”

Every competent person understands that, and that will make it abundantly plain to the House that it was the only proper course for the Commission to take, as we did on September 24th, to explain to the Secretary of State¹ that, whatever the Government might contemplate, it would be far better if the Commission were not associated with it. From that time to this (except indeed, when in common with all other men, we have deplored the prospect that there should be Parliamentary discussion on the subject), we have endeavoured, not without some difficulty, to go on steadily with the business which was put into our charge.

Here I desire to make my only other observation. I hope that I may be allowed to say,

¹ Mr. Wedgwood Benn.

without giving offence in any quarter of the House, which is not at all my object, that, whether in the opinion of this man or that, the Statutory Commission ought to have been consulted, we do not feel that our position is such as to require either heated championship or abject apology. We are merely Members of Parliament known to all of you, called upon to discharge a very important task, and endeavouring to discharge it as well as ever we can.

I would most earnestly ask Parliament to leave us to continue our work undisturbed without Parliamentary controversy, for after all we have a very heavy piece of work to do, and we at least have found that two years of very intense labour is not at all too long for the purposes of assembling and studying material and of preparing for Parliament such assistance as we can render. The Commission was formed upon a basis of complete Parliamentary agreement. We have worked for two years sustained by that support. I am most grateful for what has been said from the three quarters of the House to-day, for it reassures us that we have that support at this moment. It is owing to that support—and, I must be allowed to add, to the unfailing loyalty of all my colleagues—

that it is possible to hope that the Commission may be able to turn out useful results. It is not my place to offer assurances or issue pronouncements or to make declarations, but I am sure that we have proceeded from beginning to end, as India knows well, with an undivided and sincere desire to serve not only India, not only Britain, but both together.

We know nothing within our body of party attachments. We recall with satisfaction that at a very critical moment when we first reached Delhi it was a telegram from the present Prime Minister¹, then Leader of the Labour Opposition, which did more than anything else to show India that the Statutory Commission was the authorised agent of Parliament as a whole. So far from thinking that the incidents of the last few days have rendered their work less important, the Commission is confident that one outcome of these events is to make everybody realise that the future constitutional progress of India is one of the most complicated as well as the most important questions in the whole world. I think, further, everybody realises that an honest and sympathetic presentation of facts and considerations by a body which does not claim to be a body of supermen,

¹ Mr. Ramsay MacDonald.

but a fair specimen of both Houses of Parliament, representative of all political parties, is a contribution which it is worth while for us to endeavour to make, and a duty which the British Parliament desires us to continue to discharge. Of course it is useless to pretend that the incidents leading to this Debate have not for the time being added to our own difficulties, through no fault of our own, but, in fact, these things do not make the slightest difference in the determination of the Commission and of every member of the Commission to finish its task, and nothing that has happened will affect or deflect the completion of our duty or the character of our Report in the slightest degree.

IX

UNRESTRICTED AERIAL BOMBARDMENT

[The following speech was delivered in the House of Commons, on March 20, 1924, in the course of a debate on the Air Estimates of the first Labour Government. The total net Estimates for 1924-25 amounted to £14,511,000, compared with £12,011,000 for 1923-24, an increase of £2,500,000. Sir John Simon's speech, in which he supported the Government, directed attention to the dangers of unrestricted competition in aerial armaments, and in particular to the danger arising from a disregard of the Hague Convention against the bombardment of undefended towns. Sir Samuel Hoare (Secretary of State for Air, 1922-23 and 1924-29), who spoke later in the debate, referred to the topic as "the very vital subject."

The Air Estimates have continued to grow—in 1925-26 they were £15,513,000 ; and in 1930-31 £17,850,000.]

MR. YOUNG¹,—I would ask the Committee to allow me to intervene in this Debate, because, in addition to having a very deep interest in the Air Force and the problems connected with the development of that Force, I thought it my duty, in the debate on the Naval Estimates

¹ Mr. Robert Young, Chairman of Ways and Means.

a few days ago, to state strongly the view, which I and many of my friends hold, that a particular item of expenditure in the Navy Vote was not, in the circumstances, justified. That, I think, makes it particularly my duty to take the opportunity briefly to say that, applying, as I try to do, exactly the same tests to the question that is involved in the increase now proposed in the Vote for the Air Force, it appears to me—and I think I may say it appears to the whole of my hon. Friends—that the Government have no alternative at all but to submit this increased Estimate to the House.

I apply the test which, as I reminded the House, is the test we are bound to apply by the express terms of the Covenant of the League of Nations, which this country has most solemnly accepted—the test, namely, that we must confine our preparations, whether by land or by sea or by air, to the minimum limit of national security. It appears to me that any sensible man who impartially considers the situation as it exists at this moment is bound, however regretfully, to admit that the Government, in proposing these increased Estimates for the Air Service, are strictly complying, so far as human judgment is able to do so, with

that essential condition. You cannot, of course, spend unlimited sums on eliminating distant, and possibly imaginary perils; but, on the other hand, in this world, neither can you run obvious and palpable risks in a matter in which it is possible to secure, in some degree, reasonable terms of insurance.

At the same time, do not let any of us suppose that that conclusion really settles anything more than that it is right to vote these Estimates to-day. It is not really a final insurance; it may very well be that it is only a step in doubling the stakes in a very terrible contest. I should certainly gravely regret it if the proposal of these Estimates to-day is all that the Government hopes to be able to do in reference to this competition in Air armaments. Let us, however, speak quite plainly. No Government, whatever its politics, could possibly avoid bearing in mind the ærial armaments of France. I do not see what is the good of polite anonymous phrases. I accept, and I should think the whole House accepts with complete confidence, the assurance of M. Poincaré, in the letter which he recently exchanged with the Prime Minister,¹ when he said—I quote his words—with regard to French preparations :

¹ Mr. Ramsay MacDonald.

“ Our military and aerial establishments are exclusively designed to defend us against attempted German revenge.”

Whether that is the best way in which to secure a better condition of things in Europe is quite another matter, but we are bound to accept what M. Poincaré has said in his letter to the British Prime Minister. He wrote :

“ Our Army and our Air Force are no more a sign of defiance to England than the aerial and maritime fleet of Britain are, in your view, a threat to France.”

No doubt that is sincerely said, and responsible French public opinion ought not to complain because we say that we lament that the size—I think the quite unnecessary size—of the French aerial outfit and preparation, unhappily, makes it necessary for us also to enlarge our own provision. I do not see—it is no use pretending that I do—why France finds it necessary to keep a fighting force of 1,260 aeroplanes, four years after the peace ; but there is the fact, and, if you are living in a practical world, imperfect and truncated as the solution would be if all we can do is in a modified degree to imitate that expenditure, I conceive that we are absolutely bound to have some regard to it.

Let us realise what is, indeed, a commonplace, though it cannot be too often insisted upon by

those who are defending increased expenditure—let us realise that no country in modern times has ever more emphatically shown what is called a “gesture” in favour of reduction of armaments than Britain did in respect of its Air Force at the Armistice. No Government ever has done so. We found ourselves at the end of the War in possession of an incomparable arm. I believe the history of the development of the power and skill, and the variety of use, of the Royal Air Force, in the course of the War, will always remain one of the most astonishing examples of how great devotion, enormous courage and fine practical organising ability were able, under the terrible stress of war, to produce a marvellous transformation. We cannot be too grateful for the intelligence and the resolve which devoted itself to that end. What did this country do, finding itself in possession of a force of incomparable training, skill, and courage—a force, too, which, as compared with other forms of defence, is comparatively cheap, because, after all, though these Estimates are large, they are as nothing compared with the Estimates brought forward, and necessarily so, on behalf of the older Forces? We quite deliberately cut the whole thing down to the bone. We reduced our magnificent Air Force to

an absolute minimum, and it is perfectly clear that there never has been a case in history where a great country like ours was less exposed to the reproach that it has promoted a new race of armaments than we can be in respect of the Estimates which are now presented. It is obvious that the reduction of armaments, if ever it is going to be arrived at—whether it be by the method which the Prime Minister explained the other night when he justified his decision about Singapore—whether it is going to be arrived at by this or that form of gesture—it is perfectly clear that the reduction of armaments, to be effective, must, in the long run, be general. But that is no reason at all for saying that, therefore, if we cannot secure a reduction internationally, a proportionate and general increase produces the same situation. It does nothing of the kind. It is no real substitute for a general reduction to have a duly proportioned increase of armaments throughout the world.

The particular point to which I should like briefly to call the attention of the Committee is one which, perhaps, is present to the minds of many hon. Members who have really studied the subject, but, none the less, it is a point which it is very easy for the general public to overlook.

There is a peculiar and special consequence which is following, which has already begun to follow, unrestricted, unregulated air competition—I mean competition in the fighting service of the air—which is of particular danger to the whole future of regulated warfare. I am not speaking about the horror of the latest possible developments of bombing. I am not speaking of the terror which will come if we find ourselves moving into a world where one day we may have rained down upon us from the skies high explosives and asphyxiating gases indiscriminately. I am talking of this. Unrestricted development of air competition, especially in the production of aeroplanes for bombing purposes, means the *definite abandonment of restrictions upon warfare which it has been the effort of centuries of humanity to establish and to respect*. The fundamental thing is that as the result of tremendous effort we really had reached a point where in warfare on land a distinction was drawn between the combatant and the non-combatant. It was not so in the Middle Ages. Grotius, the Father of International law, urged—though few people at the time paid the least attention to it—that in warfare there ought to be a rule that you were not at liberty coolly to destroy the life of

civilians, but that warfare ought to be so regulated that it was soldiers and those who took part actively with soldiers who were exposed to the full terrors of armed conflict.

The Duke of Wellington was no pacifist. At the end of his life he put it on record in express terms that the bombardment of open towns was disclaimed by civilised mankind. That was not a mere fad or fancy professed by a few international lawyers. It is true to say that before this new and most horrible form of destruction began to develop in the world, it was recognised, not merely by namby-pamby theorists, but by great military authorities, that as a practical matter there were limits which civilised generals and armies would do their utmost to respect as between injury done to combatants and to non-combatants.

I have here a book issued by the British War Office known as the *Manual of Military Law*. It is the edition which was issued in 1914, the year in which the War broke out, and it is well known to those who have followed this subject with any care that the part of the book which deals with the laws and usages of war was drawn up and printed, and is supplied to units in the Army, as the result of the most careful discussion and drafting inside the War Office itself. My

right hon. Friend the Member for the Isle of Wight (Major-General Seely), who at one time was Secretary of State for War, will bear me out that this Manual of Military Law is not some professorial exercise. It is a practical book which is put into the hands of people who want to know from the practical point of view what they may, and what they may not do. On page 252, under the head of Bombardments, Assaults and Sieges, I find these words :

“ Investment, bombardment, assault and regular siege are severally and jointly legitimate means of warfare. Their application, however, is strictly limited to defended localities. *The bombardment or attack by any means whatever of undefended towns, villages and buildings, whether fortified or not, is forbidden.*”

That is the rule which the British Army, and civilised armies all over the world, were earnestly trying to observe before this new and terrible instrument developed. I am pointing out that whether by way of reprisals or of the future development of this new instrument in the air, you are, in fact, in danger of abandoning something which after years, and indeed centuries, of struggle, practical men responsible for national defence, and controlling great military forces, thought they really could observe.

Will the Committee observe these words in the Manual of Military Law—“ the bombard-

ment of undefended towns, villages and buildings *by any means whatever* is prohibited." What is the history of those words "by any means whatever"? It is worth while seeing what it was. These words are due to the fact that the representatives of the civilised Powers of the world in the year 1907 revised the language of the Hague Convention dealing with the laws and customs of war on land which had originally been drawn up in 1899. Article 25 said :

"The attack or bombardment of towns, villages, habitations or buildings which are not defended is forbidden."

I will ask the Committee to observe in what circumstances the representatives of the assembled Powers of the world deliberately put in the words, "*by any means whatever*." It was perfectly deliberate. They were introduced in 1907 in order to cover the case of the bombardment of undefended towns by projectiles from balloons. In other words, it was the very beginning of that most terrible form of attack, the dropping from the skies of explosives and bombs from some vehicle which succeeded in maintaining itself in the air, and the assembled Powers of the world solemnly bound themselves and put on record that that was forbidden. That proposal was brought before the Hague Convention, it is rather curious now to reflect,

by the French. Let me read from Professor Higgins' book on the Hague Convention :

“ The words ‘ by any means whatever ’ were introduced on the proposition of the French delegate in order to make clear the illegality of employing such a method of attack against an undefended town.”

The truth is that the reprisals of one war become the normal practice of the next. We can all recall the genuine indignation with which the British people, not only the civilian population but men who were skilled and expert in these matters, regarded the first use of poison gas. Our own use of it was a reprisal. It may be that it was justified as a reprisal, but can anyone say that in the next war the British Army is not going to use poison gas except as a reprisal? You cannot say so, for expedients which are adopted with the greatest regret by our own armed forces as a reprisal against the disregard of a previous standard by the enemy become as sure as fate the standard from which you start the next war. Who does not remember the indignation with which one heard of submarines being used to sink perfectly innocent merchantmen? Are we quite sure that when another war comes that will be regarded by civilised warfare as so impossible an action as it seemed to us then? In the same way the

use of bombing machines capable of going great distances in order that they may drop bombs from the clouds, not upon some military unit, not in order to break up a military railway, but in order to strike fear, consternation and terror through the civil population—well, whatever else you can say about it, if humanity cannot find a way of stopping it, we are as a matter of fact going back to the Middle Ages. Things which a practical soldier would have told you twenty years ago, a general of experience commanding a disciplined army, he would take good care to prevent, are things which in a future war we may practise and condone.

That shows, I think, that we have reached a situation in which, while we pass these Estimates—and certainly I think they ought to be passed—we must realise that they do not the least in the world provide any solution or relief for the danger which is overhanging us. Indiscriminate destruction is inevitable, if indeed the world in the future is to conduct its controversies by the use of bombing aeroplanes. I heard my right hon. Friend say that when you were dealing with a savage tribe of people who really could be mildly persuaded by the use of aeroplanes, it really was a very humane and sympathetic process. It may be so. At

any rate I am prepared to believe, from such limited experience as I have had, that to people who are not accustomed to it, to hear a bomb drop a considerable way off is sufficiently alarming. But at the same time, if you are talking about the use of bombing aeroplanes as between two highly organised first-class Powers, the idea that you can use those bombing aeroplanes merely to pick out some definite military objective, to destroy a fort or to blow up a body of armed men marching along a road is the height of nonsense. If any Power ever attempted to bomb a town like London it would either have to do it at night or else it would have to go very high. It is certain that in modern conditions anti-aircraft protection will make it much too dangerous for invading bombing machines to operate at a low altitude when they can be easily seen in the sky, and the higher you go or the darker the night, the more certain it is that you are raining down destruction indiscriminately, whether you like it or not.

I know enough about the Service to know that the gallant men who undertake this duty, our own fellow subjects, regretted bitterly that, from time to time, through no will of theirs, the bombs that they dropped must have destroyed innocent women and children, as well

as men. It was a frightful thing to think of, and I hate to think that a gallant young pilot in our own service should really have in front of him as the possible future service of his life the developing of this indiscriminate bombing as the only way in which to promote the peace of the world. The only hope in this matter, really, is that there should be an attempt made, however difficult it may be, to get some form of international limitation. If we go on pretending to one another that the bombing aeroplane is merely engaged in hitting combatants and is not doing any damage to non-combatants, we are talking nonsense.

It is true that the horrible philosophies of Treitschke and the rest of them, and the whole doctrine of frightfulness, which could be resisted as long as you were dealing with forces moving in two dimensions, become, in fact, a very serious difficulty to surmount if once you engage in unrestricted frightfulness in the air. Our only hope, therefore, is some form of international limitation, and I should like to ask the Under-Secretary, or whoever replies, whether in connection with these Estimates he can hold out any hope on this subject? I know that the right hon. Member for Chelsea (Sir Samuel Hoare) devoted himself to a consideration of

this subject, most carefully, and we all know that at the Washington Conference there was a Committee on this subject, but that Committee produced a very discouraging Report.

This is an immensely difficult subject. You cannot limit it, for example, by an agreement as to how much you will spend. I rather fancy that at this moment the enormous air power of France costs France less than the comparatively limited sum which we are spending in this country on our Air Service. You cannot, I fear, hope to have an international limitation, at any rate, in the first instance, which will cover the whole field. There is a great complication which must be familiar to everybody who has thought about it, that, in the case of the aeroplane, there has been up to the present, in certain directions, a development which may be said to be common to both commercial and military machines. I should like to know what is the view of the Air Ministry as to that development in the future. Do they think that there is a tendency to divergence of type as between the sort of machine that is really useful for commercial purposes and the sort of machine that is used for fighting purposes?

It is quite obvious that the scout machine, the reconnaissance machine, the two-seater

machine in which the pilot, on the one hand, works the figure of eight over the enemy guns, while the observer is engaged in spotting for the purpose of artillery fire, are not machines of a commercial character at all. The difficulty that I apprehend is—I speak subject to correction, and especially subject to the correction of hon. Members who are really experts on this question—that your bombing machine, which must be able to carry great weight, is also in some respects the sort of machine which in general construction, having regard to engine power, lifting power and the like, has some of the characteristics of a good commercial machine. The difficulty, therefore, is very great in seeing how you can get a limitation even of bombing machines which does not cut into the problem of development of the commercial machine. Therefore, I think it would be of great interest to the Committee to know what is the expert view of the Air Ministry as to how far a divergence of type is really being developed.

At first sight, one is tempted to say that the commercial machine does not need to fly very high, whereas, of course, it is everything in a bombing machine to have a sufficiently good ceiling. There again, to limit it in that way, I apprehend the answer will be that the height

to which the machine can climb largely depends upon its load. You may very well have a commercial machine which will go over the Channel at ordinary commercial heights, having regard to its structure and its engine power, but which, none the less, if it was less heavily loaded might go to much greater heights. What, therefore, I would like to know is the view of the Air Ministry as to the possibility of promoting some form of international limitation, at any rate as regards bombing machines. I am not speaking of the totally different class of machine, the Scout, the small machine which is in modern days the eyes of the Army, and to a certain extent the eyes of the Fleet. Those machines are associated with definite military operations, and I do not see that the problem is nearly so urgent in regard to them. The really urgent thing is this—what can this Government, on the advice of its experts, tell us on the subject of the bombing machine?

Though we do not start the race in armaments, it is no solution, indeed it is not even the beginning of a solution, to join in the race in armaments. It is true that we are a very long way behind somebody else, but it still remains equally true that if the best we can do is to spend money in order that

we may, on our side, develop for unrestricted bombing purposes an arm of this sort, though we may be behind in the race, there is no solution to be found merely because we take part in it. It is no solution to say: "This Government is really fulfilling the late Government's programme." They were quite right to bring forward these Estimates, but that is no solution. Perhaps I may respectfully say to the right hon. Member for Chelsea¹ that I doubt very much whether it is any solution to say that the numbers in our Air Force must be of sufficient strength to give adequate protection against air attack by the strongest Air Force within striking distance. These things may be important when you consider how you are to calculate your premium for insurance, and what you can afford and what you cannot afford, but the real thing that the mind of the country has to address itself to is not whether these Estimates are justified or whether they are adequate, but what the Government can do in order to take part in stopping this unlimited race in unrestricted destruction.

We cannot confine the horrors of the next war in any way if that war is going to be conducted on the basis of unrestricted,

¹ Sir Samuel Hoare.

unregulated, indiscriminate bombing destruction. While, therefore, for my part, I thought it only right, especially having regard to what I said a few days ago, to make it plain that I would defend these Estimates as being obviously justified and proper, I hope the Committee will excuse me for pointing out that it is this new problem, this sinking back into what was the practice of the Middle Ages, and the abandoning of the principles laid down in the Hague Convention and written in the manuals of military law of every country, which is the serious question which has to be considered when we discuss future fighting in the air.

X

THE INTERNATIONAL COURT OF JUSTICE

[The following address was delivered at a League of Nations Union Conference held in London on June 6, 1928. The subject of discussion was: "The growth of judicial decision in international affairs." Lord Phillimore presided.]

It is useful to emphasise the fact that the real significance of the Permanent Court of Justice at The Hague is that it has the true characteristics and qualities of a "court." But what is the value of its being a permanent court? Why is permanence in the court so important? First, it is important because, as we are already beginning to appreciate—though this court has only been in existence seven or eight years—a permanent court, notwithstanding the limitation of its jurisdiction and the difficulty in theory of enforcing its decisions, can do something which an arbitrator or a number of arbitrators can never do. It can build up a body of case law—what the lawyer may call jurisprudence—until the decisions it has actually

given form only a small part of the total influence which it is able to exert.

That is an enormously important fact in considering the progress made. It is the building up in the minds of those who may be disposed to be quarrelsome, and to make unfair use of a quarrel, of a knowledge that there is this permanent tribunal with a regular list of cases, with its doors open to receive those who come to it, which experience has shown hears the case fairly and decides it justly—this is the thing which gradually creates in the world the belief that it is better to argue it out than to fight it out. The growth of that belief is not to be measured at all by the number, substantial as it is, of the cases which have actually been decided in these seven or eight years by the Permanent Court of Justice.

But the second claim to be made for the Court is really more important. There is a famous passage in Shakespeare's "King John":

How oft the sight of means to do ill-deeds
Makes ill-deeds done !

And that hackneyed quotation may suggest a corresponding reflection when one considers the influence of a good instrument like the Permanent Court of Justice on the behaviour of the

world. The fact that it is there, as the organised embodiment of the deliberate intention of the world to get international disputes judicially settled, is in itself a thing which creates the spirit of accommodation, a willingness to negotiate and be reasonable, which would not otherwise at this moment be equally secured. You remember the cheerful observation of Mr. Wemmick: "Halloa, here's a church; let's go and get married." I cannot help thinking that it has its counterpart in international affairs, and every now and then people say: "Hello, here's a Permanent Court of Justice at The Hague; may it not be well if we find out what the judges think of the dispute?"

Now I would like to add that this would be so even though the whole jurisdiction of the Court is voluntary—a very grave misstatement of the facts. Quite apart from any general adoption of the Optional Clause, compulsory jurisdiction is now conferred on the Court—on the Permanent Court—by something like two hundred agreements or treaties by which States have agreed that they are bound to refer either certain cases or certain classes of cases, if disputes arise between them, to the Court for their final decision. Thus, beginning with a remarkably modest plan, within this short

period of seven or eight years confidence in the Court has already reached such a point that you have now this very large list of possible classes of dispute, which given States are bound as between one another to submit to the Permanent Court at The Hague.

No real service is done to the cause of peace by exaggerating the range which can be covered by the Permanent Court. At the risk of being merely platitudinous, we must always bear in mind that an international court, like any other court, can only pronounce judgment in certain classes of international disputes. The business, and the only business, of a court is to pronounce judgment on the rights of parties as they are, and not on the rights of parties as they ought to be. Judges do not sit, whether they are municipal or international judges, to consider whether people's rights ought to be altered. They sit to ascertain what are their rights as things now stand, and it is manifest that a great many matters of dispute and a great many causes of controversy in the world are not necessarily settled merely by telling people what their existing rights are.

A just judgment on a judicial problem, on strictly judicial lines, does not in itself necessarily lead to contentment and peace. The

rivalry of races, the inequity of boundaries, the need for expansion, the redressing of political grievances, the claim that a great entity in the course of time has raised itself to a level of political judgment and sagacity where it ought to be a self-governing power—I do not see how questions of that sort—some of the most fundamental questions in the world—are susceptible of treatment by even the wisest court of judges. They do not seem susceptible of judicial treatment. The Permanent Court of International Justice necessarily must confine itself to deciding things which are susceptible of judicial treatment. I think it would be a most unwise course to treat a court, however independent, as especially qualified to solve what is really a political problem. Nothing is more likely to bring the whole scheme of a permanent court into disrepute than the idea that these most distinguished jurists are concerning themselves with anything except impartial judgment on the basis of the law as they find it.

What is the moral to be drawn from that reflection? It is this: That side by side with the advocacy of the use of the Permanent Court for obtaining judicial decisions in international relations, we must always give equal importance

—at least equal importance—to that side of the work of the League which is engaged in promoting conciliation. Law is not the whole of life. A permanent court is administering the law, and a vast deal may be done by the just, impartial administration of the law ; but, deeper than that, beyond that, is the promotion of respect for others' claims, even though those claims have not a strictly legal basis. A wise appreciation of the extent to which the world is still imperfectly constructed, despite the Treaty of Versailles, may have quite as much to do in promoting the future of international peace, as the creation of the Permanent Court of Justice at The Hague.

XI

THE BRITISH COMMONWEALTH OF NATIONS

[The following speech was delivered at the annual banquet of the Association of British Chambers of Commerce, on April 26, 1928. It was published in *The Times Trade and Engineering Supplement*, of May 5, with the following editorial note: "At the banquet of the Association of British Chambers of Commerce on April 26 Sir John Simon proposed the toast of 'The Commonwealth of British Nations' in a speech which was received with the greatest enthusiasm. It expressed most felicitously the sentiments of all British citizens, but, owing to the hour at which it was delivered, was inadequately reported. At the request of many readers we therefore print it in full."]

MR. PRESIDENT, MY LORDS AND GENTLEMEN,—I am to propose for your acceptance the toast of "The Commonwealth of British Nations." I am privileged to associate with that toast the name of the popular and efficient High Commissioner for New Zealand, Sir James Parr.

Every Member of Parliament who has the good fortune to receive an invitation to this annual banquet greatly looks forward to availing

himself of it, not only because he takes, like every honest Englishman, the most intense interest in the prosperity of British trade, but because this is one of the rare occasions in House of Commons' life where one may be absent for an evening from the delights of that assembly with the knowledge at any rate that there is one tableful of one's constituents who will approve the action. I have a double reason for satisfaction, because looking at the table plan I see that whereas places like Birmingham, Bradford and Leeds are content with one table, my constituents from Spen Valley require two.

I feel, my lords and gentlemen, that the toast entrusted to me is one which this year, and indeed every year, will be welcomed with a unanimous enthusiasm which cannot be surpassed, with an enthusiasm which indeed may be even more unanimous than that which has just been afforded to the toast of His Majesty's Ministers. This is a non-party occasion, and I shall be very careful to preserve the well-understood convention of such a gathering. I have a much safer subject which is allotted to me. And may I observe for a moment about this Commonwealth of British Nations that perhaps it is just as well that the ordinary Briton

is not unduly given to historical retrospect or to abstract meditation ? If he were, I dare say he would not be as good a business man as he is, for certainly when he begins to reflect on the history of the development of the British Empire he finds himself in the presence of a fact as stupendous and a mystery as permanent as any event in the history of human institutions. There must be many who, like myself, reflecting with pride on all that this means to us, may have asked, " What happy chance is it that has made us partners in this splendid enterprise ? " What a thing it is that we round these tables to-night can speak of " this blessed plot, this earth, this realm, this England," as the very centre of our own national being !

There is a doctrine fervently held by the votaries of one of the great religions of the East that each of us in this present life enjoys or suffers his immediate experience as a reward or as a punishment for behaviour in some former existence. Well, it may be so ; but if it be so, what an extraordinarily well-conducted former-self must every Briton have had who thinks of what the Commonwealth of British Nations has meant to him ! Yet this thing is so much of the very air we breathe, so much a commonplace of our lives—except at rare

intervals when it becomes the subject of a toast—that we take it almost as common form. Yet this marvellous thing is the development of the times immediately preceding ours and of our own day.

It so happens that this morning I was moving some law books of mine when I happened to see in the first edition of the famous treatise of Sir William Blackstone the reference—I believe it is the only reference in that comprehensive treatise of four volumes—to British law as it obtains in the Dominions beyond the seas. Here you had this accomplished student and master of this great science expounding in the most comprehensive manner his survey of the whole of English law, and all I find on the subject of my toast is this: “Our more distant plantations in America and elsewhere are also in some respect subject to the English law.” That book was published, I think, in 1769, quite a short time after the battle of the Plains of Abraham and the victory of Wolfe at Quebec. Do you realise that in that very same year 1769, there was a British sailor, a persistent and determined man, who had himself been with Wolfe at Quebec, named Captain Cook, who was setting foot for the first time on the land which we now know as the Dominion of New Zealand?

I will not venture to detain you with any synopsis of the present state of this immense organism, the British Dominions of the Crown ; still less with any speculation as to the future ; but let us just for one moment consider what are at this time of day the fundamental considerations upon which it is based and is developing. First, I would put the principle which the practical men of our own race have been the first thoroughly to establish in the world, the principle that unity in loyalty may be best secured by diversity in local government—that the greatest practicable measure of local freedom is upon the whole the best way to secure co-operation between every part. Secondly, I would put this doctrine, which has long been immanent in our Empire, but which was expressed in formal terms at the Imperial Conference only last year—the doctrine of the equal status of British citizenship in every Dominion, so that between all self-governing partners of the Empire there is an absolute equality of liberty. Thirdly and lastly, I put that silken bond of a common loyalty which unites the whole. I would add this : The British Empire is not a federation ; each part of it is not subject to some higher or broader legislative body. It is not a federation

but a commonwealth, in which co-operation under a common Crown typifies our resolve to work with and help one another, whatever the future may have in store.

When we reflect how in our own lifetime this enormous development has gone on, every thoughtful man must be tempted to speculate about the future. The day may come when an Imperial Conference will be held with the help of television and beam wireless. Our Dominion statesmen, each sitting among his own colleagues in his own country, may be able to contribute at a distance from moment to moment to a common discussion. The day may come when the Judicial Committee of the Privy Council, on the whole the greatest judicial organ in the history of the world, may find itself going on circuit through the Empire: for to-day it is as quick—and I would add far more comfortable—to go from London to Ottawa as in the old days it was to go from London to Edinburgh.

These things are in the future, but when we ask ourselves what use the component parts of this commonwealth mean to make of their freedom, I will make bold to answer that they mean, come what will to live united under the British Crown.

Now, gentlemen, you will allow me in two or three sentences to associate this toast with the High Commissioner for New Zealand. He will not have forgotten, and some of you may remember, that this is not an inappropriate time of the year for us to toast the spokesman of New Zealand. Thirteen years ago yesterday—on April 25th in that year of destiny 1915—the Australian and New Zealand troops made for themselves an imperishable memory. We esteem ourselves very fortunate to be able to applaud Sir James Parr on the morrow of Anzac Day.

What is the earliest reference in English literature to the part of the world from which he comes? It is that famous passage of Lord Macaulay's when he reflects on a possible future, and speaks of the time when "some traveller from New Zealand shall, in the midst of a vast solitude, take his stand upon a broken arch of London Bridge to sketch the ruins of St. Paul's." I understand the best authorities are extremely uneasy about St. Paul's, and the stability of some of the London bridges is not altogether above suspicion, but we are glad to reflect that, at any rate down to the present, the place in which we are meeting could not be described in business hours as a vast solitude.

When Sir James Parr—or it may have been his predecessor—came here, he no doubt had that passage of Lord Macaulay's in mind, but, being an active man, determined to make the most of the present occasion, he did not plant himself, with his sketch-book, upon an arch of London Bridge, but on the contrary opened some magnificent offices, the postal address of which is 413 to 416, Strand, W.C.2, and there anyone who wants to know anything about New Zealand or how to go to New Zealand, or what New Zealand has got to sell, or, peradventure, what New Zealand is prepared to buy, will find at suitable hours the most complete and admirable information.

But, gentlemen, what I do not think is always remembered about that famous passage of Lord Macaulay's is this. When that great man wrote it, it was not a piece of random hyperbole ; it was, at the moment at which it was written, a topical and apposite allusion. If you will turn up the library edition of the essays of Thomas Babington Macaulay, you will find that that passage occurs in an essay which was published, I think, in the *Edinburgh Review* for October, 1840. What happened in 1840 ? Why, when Macaulay composed that sentence and put it in his essay, the news

had just reached this country that the first emigrants from the Motherland had set foot in New Zealand. They set foot there not very far away from the place which was afterwards named after Lord Auckland, one of the Governors-General of India, and from that day to this these favoured islands, this Britain of the Southern Seas—where guide-books tell you the summer is as cool as England and the winter is as warm as Italy—have progressed in intelligence, in population, in commerce, and in association with ourselves, until they form to-day one of that Commonwealth of Nations whose union with us we celebrate to-night.

I invite you, gentlemen, to charge your glasses, and to drink with me the toast of “The Commonwealth of British Nations,” and to associate with it, on the morrow of Anzac Day, the name of Sir James Parr.

XII

OUR COMMON INHERITANCE OF THE COMMON LAW

[The following address was delivered as guest of honour before the American Bar Association, at Cincinnati, Ohio, on August 31, 1921. Mr. Elihu Root, former Secretary of War, Chief Justice Taft, and Mr. John W. Davis, formerly American Ambassador at the Court of St. James's, were among those on the platform.]

MR. ROOT, LADIES AND GENTLEMEN,—You have heard from my friend, Mr. John W. Davis, a detailed and accurate account of the organisation and working of the legal profession in the country from which I come, but I noticed that he did not include among the functions or the experience of an English barrister the formidable ordeal of addressing the American Bar Association. I ask in all sincerity for your sympathy and your understanding, for while I deeply appreciate the honour you do me in asking me to speak to you, and while I would fain believe that some of the kind things said to-night about the profession of the law in the Old Country are true, I would

beg you not to go away disbelieving all you have heard because of the inadequacy of the performance of its representative.

Eighteen summers ago, in weather nearly as sultry as this, you, Mr. Root, were sitting in the Foreign Office in London as a member of the International Tribunal appointed to define the boundaries of Alaska ; and I was the most junior and the most obscure of the counsel appearing on behalf of the Dominion of Canada and the British Government. My part on that occasion was what is called in another profession a “walking” and not a “speaking” part, but I vividly recall the contest of argument between Sir Robert Finlay and Mr. Jacob Dickinson—Judge Dickinson, whom I have the satisfaction of seeing on this platform to-night—and I recall still more clearly the inexhaustible stream of good stories with which Judge Dickinson refreshed us all. It is a peculiar pleasure for me, Mr. Root, to appear before you again, eighteen years later ; and when I see before me this array of American lawyers and realise that I stand here, lonely and unprotected, as perhaps the only member of the English Bar present at this immense gathering, I cannot be too thankful that this is no occasion of

controversy between the lawyers of the one country and those of the other ; but is, instead, an occasion when we celebrate and put on record our feelings of mutual friendship and good will. I am reminded of the reply of the witty Irish cleric Father Healy, who, when he was asked by one of his flock : What was the difference between the Cherubim and the Seraphim ? replied, " Well, I believe there used to be a difference at one time between them, but they have made it up." And if anything could add to my pride and pleasure in being your guest here to-day, it would be that I am invited to follow my friend, Mr. John W. Davis, whom all Englishmen hold in the highest admiration and regard. Our only complaint against American Ambassadors in London is that they stay there too short a time. Sir Walter Scott once observed that it was just as well that horses and dogs did not live as long as human beings, for if they did we should never get over their loss. And Mr. Davis will not, I feel sure, take it amiss if I compare British affection for him with our devotion to the most noble and faithful of four-footed friends. I will venture to repeat of him, and of all Americans like him, what I took occasion to say at the Independence Day

banquet in London last year—that I am convinced Shakespeare must have had Mr. Davis in mind when, in his play, “The Tempest”—which in many passages reflects the admiring wonder of Elizabethan England at the discovery of the West—he puts in the mouth of Miranda, when her Enchanted Isle was first visited by Ferdinand and his comrades from overseas, the ecstatic exclamation :

“O, brave new world
To have such people in it.”

Mr. Davis has spoken of the fraternity of the Bar, and I rejoice to address you to-day not merely as members of the great Association, but as my brethren. We are sons of the same mother, and we inherit a common tradition. The Common Law is like a rich seam of precious metal lying deep below the surface of the life of Britain, and this rich seam outcrops again in the North American continent, and has there been worked and assayed and refined and applied by diligent and skilful toilers in nearly every province of Canada, and nearly every state of the Union for the progress and development of mankind. Distance and time are powerless to destroy this underlying unity.

I do not forget that in the early days of the American Republic there was in some quarters

a movement to repudiate the Common Law on the ground that it came from England. It would be as reasonable for Americans to repudiate the game of golf because it comes from Scotland ; instead of which the authors of your independence lost no time in making what I may call " a tee-shot " into Boston harbour, and in naming one of your early battle-fields Bunker Hill. And, indeed, the Common Law, as you and I understand it, is not some British institution which has been imposed or foisted upon Americans ; it is the common possession of both countries, which has been preserved and developed by the energies and the intelligence of each ; and, certainly, no nation owes more to its lawyers than does this great Republic. When the French Revolutionists killed the famous scientist, Lavoisier, they shouted : " The Republic has no need of chemists," but the founders of the American Republic made no such mistake about lawyers. Of the fifty-six signatories to your Declaration of Independence no less than twenty-five were lawyers ; while of the fifty-five members of the Federal Constitutional Convention thirty-one were lawyers. It would be true, I think, to say that in these great acts of constructive statesmanship, lawyers played as large a part

in America in the eighteenth century as they had done in England in the seventeenth. And now that the light of history shines high in the heavens and has dispelled the mists of prejudice and passion, let us admit that in both cases it was the devotion of lawyers to constitutional liberty which laid broad and deep the foundations upon which in both cases popular government has been built.

We must not forget that the Common Law at the end of the eighteenth century was as yet undeveloped in many of its modern applications. Save for the luminous and comprehensive treatise of William Blackstone there was hardly a law book which could be described as attractive reading. Coke on Littleton I have always regarded as a repulsive authority, and the early Digests were presumably so-called because their contents were quite indigestible. Coke, indeed, claimed that the Common Law was "the perfection of reason." But a system which punished witchcraft by fearful penalties ; which ascertained whether a man was mute by malice or by visitation of God, by piling weights upon his body heavier than he could bear, to see whether he would cry out ; and which chiefly concerned itself with the incidents of feudal tenures and the niceties of written

pleadings, may well have seemed unsuited to the needs of the vigorous and progressive Republic of America. All honour, then, to the lawyers of this nation who realised that there was precious gold hidden beneath this dross and who extracted from the ancient Common Law so many of those modern applications which have made it the basis of the jurisprudence of the English-speaking world.

It is instructive and interesting to observe how far during the last one hundred and fifty years lawyers in the two countries, building independently upon the same foundation of the Common Law, have erected a corresponding structure. The world in which the Common Law had its beginnings, knew nothing of modern methods of transportation or communication, and it remained to be seen whether the ramifications of banking and insurance and every form of business could be served by new applications of ancient principles. It is a wonderful proof of the truly scientific character of law that alike in the old world and in the new, judges and lawyers trained in the same school should have found the same solution for the same difficulties. The works of Joseph Story who, knowing the bearings of every case, navigated from headland to headland, and the

judgments of John Marshall who was like a mariner with a compass by which he could find his way across uncharted seas, so as to proceed straight to the desired and destined haven, are studied and often quoted by a trained English lawyer. It is one of my earliest recollections of the practice of the law how the English Court of Appeal was convinced by reference to a chapter in Mr. Justice Holmes's profound and masterly analysis of the Common Law, that a previous decision of the English High Court was wrong, and that the true principle was to be found expounded in that remarkable treatise.¹ And just before I left England, I was arguing before the House of Lords the question whether, what we call "bonus shares" and you call "stock dividends" were liable to tax as income, and I had the satisfaction of illustrating and reinforcing the proposition which ultimately prevailed by citing a recent judgment of Mr. Justice Pitney in the Supreme Court of the United States.²

Equally remarkable is the development in the two countries, side by side, of that branch of the law which deals with personal rights. An

¹ The Winkfield [1902], P. 42.

² Commissioner of Inland Revenue v. Blott [1921], 2.A.C. 169.

interesting book might be written by an English lawyer and an American lawyer jointly, comparing and contrasting provisions for securing the rights of married women—for protecting children—for enabling the insolvent debtor, who has done his best but is overwhelmed by misfortune, to make a fresh start instead of languishing in a debtor's prison—for admitting parties in civil and criminal cases as witnesses in their own behalf—and for removing disabilities of sex. We have at length followed the American lead in throwing open the profession of the law to women, and the first woman barrister will shortly be called at the Inns of Court. But if I may judge from the aspect of this audience, it would appear that women lawyers, like others of the sex, having received acknowledgment of their rights, are not always concerned to take full advantage of them.

I think it will be found, if a comparison were made, that the main differences between the private law of England and America are more in the region of practice and procedure than in the realm of substantive rights. Nearly fifty years ago we swept away the distinction between law and equity, and it may fairly be said that the existing system in England is

one which does not deprive a man of his rights because he has come to the wrong court. The old system of pleading has been abolished, with the result that more simplicity has been introduced into the preliminaries of trial, though with a sacrifice of precision which many of the best English lawyers sometimes feel to be a misfortune. So far as England is concerned, the challenge of a jurymen is practically unknown, and we have not found it necessary to inquire into the antecedent knowledge of the jury, but have thought it sufficient to rely upon their sense of responsibility as citizens. The use of juries, however, has much decreased of late, and though, for my part, I think twelve jurymen much the best tribunal to give a competent and confident decision on insoluble problems (such, for example, as the amount of damages which should be given for a broken leg, or rendered to a lady who has lost her husband in a railway accident, and married again), there is an undoubted tendency in the old country to dispense with their assistance in cases which formerly would have required it. But I think the main claim which an English lawyer would seek to make in favour of his own procedure is on the score of speedy trial. Justice delayed is Justice denied, and

though our circuit system sometimes leaves an accused person in custody for as much as two or three months before his case is heard, the trial itself is carried through without further delay, the opportunities for appeal are circumscribed, we have abolished much of the technicality which formerly offered a way of escape for the guilty, and the carrying out of the sentence promptly follows conviction. In civil cases great efforts have been made to avoid delay, and it is possible in our commercial courts to have a case tried within a few weeks or at most a few months of the issue of the writ.

But these differences are all differences in detail in which each country may have something to teach and something to learn. The great fact is, that English law and American law, derived from the same origin, are pursuing the same goal, and in our intercourse with one another we are realising more completely the solidarity of the friendship of the English-speaking world.

What are the foundations, the unseen but unshakable foundations, upon which Anglo-American friendship rests? It is a friendship the peaceful continuance of which over a full century of time we were preparing to celebrate

in that year of destiny 1914. It is a friendship which since that date has been cemented and consecrated, in the valley of the shadow of death, by heroic suffering and triumphant effort in a common cause. In Flanders and in France, British and American dust lies mingled, and can never again be separated. Both nations share, in the immortal words of Abraham Lincoln, in the solemn pride that is theirs to have laid so costly a sacrifice upon the altar of freedom. These young lives, so boldly offered, and so bravely surrendered, are at once a token and a pledge. They are a token of that unity of spirit pervading alike this young nation and the old land from whose loins she sprang, which no width of ocean could divide and no memory of ancient feud could destroy. And they are a pledge for the future of Anglo-American friendship, and thereby for the peace of the world.

Love of liberty, a joint literature, the same language, and the Common Law—these are the four Evangelists of the Gospel of Anglo-American friendship: these are the big four who can best guarantee that hands will be grasped in a common resolve to save those for whom this stupendous sacrifice was made from a renewal of strife. And among these

influences which made for the reconciliation of mankind and the saving of humanity from the unspeakable horrors of armed conflict, law, in its highest and broadest sense, is one of the chief. It is the instrument of Justice : it is the handmaid of Order : it is the guarantor of individual right : it is the arbiter of Dispute and the reconciler of Difference : it is the cement which binds together the fabric of human institutions : it is the Standard which society erects to guide those that are tempted, to recall to the true path those who are led astray, and to symbolise the fact that each one of us cannot live for himself, but must serve and work for the common good.

Let us, then, boldly proclaim our pride in this great profession of the law ; our resolve to bring no dishonour upon its escutcheon ; and our belief in the value of the contribution which it may make to the peaceful progress of the world.

XIII

THE VOCATION OF AN ADVOCATE

[The following address was delivered before the Canadian Bar Association, at Ottawa, on September 7, 1921.]

MR. JUSTICE DUFF: Ladies and Gentlemen,—
I may as well begin by admitting that, whatever be the explanation, there is in some quarters a painful prejudice against lawyers. Whether in our strictly professional sphere, or whether in the public work which lawyers have in time of crisis so often undertaken, we feel that we are a misunderstood class. We are denounced for vices which we never practise, and, what is even more surprising, we are acclaimed for virtues which we seldom attain. To a large part of the general public, a lawyer at his worst is an unprincipled wretch who is constantly and deliberately engaged in the unscrupulous distortion of truth, by methods entirely discreditable, and for rewards grotesquely exaggerated. Even at his best, a lawyer in the minds of many people is marked only by a supernatural coolness and an almost

infernal cunning, by means of which he discovers at the last moment an argument which nobody has thought of, or produces a witness from some forgotten corner as a conjurer produces a white rabbit from the tails of his evening coat, and thereby, when all seems lost, overthrows the obstinate and rescues the innocent.

Speaking to my brother lawyers of Canada, here in the Temple of Truth, don't you agree with me that both those pictures are exaggerations? It is not true that a lawyer spends his life in the dishonest and unprincipled pursuit of distorting fact and colouring truth, and it is not true, either, that by waving some rhetorical wand in court he works miracles and compels agreement. The truth about the matter is that a lawyer is a very plain, matter-of-fact, hard-working person, who devotes long hours in private to preparing what may not show for very much in public; and I say with boldness to you that a lawyer is neither so unscrupulous nor so ingenious as some people suppose.

We lawyers, "conscious as we are of one another's imperfections," are prepared to deny the popular description of the character of the advocate's art. There is no royal road to success or fame in the lawyer's craft without unremitting labour; and our vocation is one which

calls for, and which does not call in vain for, the nicest sense of honour and the strictest devotion to justice. Therefore, it is as a lawyer who is proud of his profession, who believes it is a great and necessary calling, which contributes much to social justice and is essential for the progress of institutions, that I invite you to consider for a few moments some characteristics of the vocation of an advocate.

And first, ladies and gentlemen, allow me on behalf of the practising members of the profession to get rid of one antiquated fallacy. It is astonishing what a number of people believe that lawyers succeed without work. Why, the truth of the matter is, as indeed somebody once said, that the Bar is not a bed of roses, for it is either all bed and no roses, or else it is all roses and no bed. I, for my part, find it very difficult to believe some of the stories that are told of the uninterrupted and continuous labour, hour after hour, night and day, which has been undertaken in the pursuit of our profession by some distinguished advocates in the past. I have been assured, however, for example, by the son of a former Lord Chancellor, that when his father was at the Bar he never went to bed for a week. Well, that is hearsay evidence.

I have heard a successful English barrister

declare that there are only two things needed for success at the English Bar ; the first of them is a good clerk, and the second is a good digestion. But I happen to know that that particular member of the Bar never argues a case without having very fully and carefully studied his brief ; and I think our talk to-night would not be without its value if it would do something to disabuse the public mind of the idea that advocacy is a sort of *tour de force* in which a man, under some sudden inspiration, whether by the superior or inferior deities, dashes in, and, relying upon the divine afflatus, delivers himself of some overwhelming argument, couched in language of the most elaborate rhetoric, and thereby proves that the worse is the better reason. It is not true at all. I do not believe that there is any great profession in which honourable success is attained without unremitting labour. The old definition that genius is an infinite capacity for taking pains is open, perhaps, to the objection that genius is so rare a quality that no analysis will discover how to attain it ; but that no man can attain a great position in our profession of the law unless he is prepared to devote all his powers of mind and concentration upon the work he has to do and the preparation for the case he

has to argue is, I am convinced, the experience of all those who have tried this strenuous competition. All doctrines to the contrary are quite unfounded.

Let me, for instance, remind you of an incident in the life of that great lawyer, Charles Bowen, whose judgments, after he became a Lord Justice and a Lord of Appeal, are known to us all. Charles Bowen was one of the two juniors in the famous Tichborne litigation. Mr. J. C. Mathew was the other ; he too was afterwards a Lord Justice and a very distinguished and powerful commercial judge in England. The Tichborne litigation was a case in which the plaintiff's cross-examination lasted twenty-two days. The hearing of the plaintiff's case lasted seventy days. The opening speech for the defence lasted a month. And, most astonishing of all, the summing up of Chief Justice Cockburn in the subsequent proceedings for perjury which were taken against the person who claimed to be the inheritor of the Tichborne estates—the summing up of Chief Justice Cockburn lasted eighteen days and occupied 188 columns of *The Times* newspaper. Well, that was something like a case ! Mr. Bowen was engaged as a junior in that case from the middle of 1871 to the end of February, 1874,

and his biographer says this : “ He devoted to it the whole of his powers, intellectual and physical. His familiarity with every fact of it was complete. He used to say that he did not believe that there was a single fact or a single date in the evidence of which he was not fully cognisant, and of which he was not prepared on the spur of the moment to give an immediate and correct account.” And yet, ladies and gentlemen, when that Tichborne case was over, when the Tichborne estates down there in Hampshire were confirmed in the hands of the man to whom they really belonged, and when this unhappy claimant had been sentenced to seven years’ penal servitude, I should doubt whether there was a single fact, or a single date, or a single circumstance in the whole of that immense accumulation of detail—all of which was in Charles Bowen’s memory—that was of the slightest permanent value or interest to anybody on earth.

There is the real tragedy of a successful lawyer’s life. He is constantly under the duty—and if he regards his profession seriously, it is a most solemn duty—of learning the detail about his client’s business with a precision and a minuteness which passes far beyond the bounds of what is interesting or permanent,

and when he has done it, this vast and detailed study may, to a large extent, be wasted labour leaving nothing of enduring value behind.

Next to the advocate's willingness to dig out and analyse and understand the details of the case which he is preparing for trial, I would put, in the armoury of the advocate, the power to select out of this vast mass of detail the things that really matter—and the courage to reject, in the face of his client's reiterated desires, and in the face of every other temptation, the accumulation of unnecessary material, which is better left unused. The Tichborne litigation was of enormous length, and there may have been good reasons why it lasted so long ; but in my judgment and so far as my own experience goes, other things being equal, the shortest argument is the best.

This concentration requires sureness of judgment, and it requires strength of character. The lay client is so familiar with his own case that he sometimes finds it very difficult to communicate all the relevant facts of the case to his professional adviser, but on the other hand it is extraordinarily difficult for the lay client to believe that his professional adviser, if he omits any fact in the case, is not doing so either from ignorance or from indolence, or

from indifference, or, it may be, from a desire to get as soon as possible into another court. And yet, recalling after an experience of twenty years the arguments that have really impressed me—both arguments in point of law and argument on questions of fact—I feel more convinced to-day than ever that one of the most important things at which every advocate ought to aim is this economy of his material which enables him to present a picture in which everything that is critical and salient stands out and where there is no danger that anybody will fail to see the wood for the trees.

Indeed, Mr. Justice Duff, I will make a very bold confession. Speaking from the point of view of advocacy, I do not greatly admire the famous speech of Portia in the “Merchant of Venice.” Of course she was a lady barrister, and I believe it was her first brief ; so on both grounds we must speak with indulgence and consideration. But I don’t greatly admire her performance as a matter of advocacy. No doubt that was a very fine passage all about the quality of mercy, and it would have been a most admirable way of addressing the Court in mitigation, supposing that Antonio was going to be convicted. But since she had got in reserve that point about the pound of flesh,

I must say I think she ought to have brought it out immediately. If I had been the Duke of Venice, though I should have decided in Portia's favour, I should have made her pay the costs of the first half-hour of the hearing.

But then, lawyers and barristers and judges are notoriously impervious to the influence of poetry and drama. I remember to have been told a story of a very shrewd, but peculiar English judge, who, I believe, was one of the best judges of a horse that ever sat upon the bench, but who sometimes avowed curious literary opinions. Meeting one day in the Temple with Serjeant Talfourd,—the same to whom 'Pickwick Papers' is dedicated—who, besides being one of the Queen's serjeants, was a great Shakespearean authority, this lamented judge said to him: "Talfourd, you know about Shakespeare, I believe. Tell me, what is the best play of Shakespeare to read, for I have never read any of them?" Serjeant Talfourd gave the rather surprising advice that he thought the best play to begin with was the tragedy of Romeo and Juliet, and, meeting the judge about three weeks afterwards, asked what he thought of it. "What do I think of it? Why, I don't think anything of it. It is a tissue of improbabilities from beginning to end."

So far, I have been insisting that in the outfit of the advocate, apart altogether from any question of knowledge of law or knowledge of men, or knowledge of women, all of which are very necessary ingredients in his composition—I say nothing of the even more necessary knowledge of judges—so far I have been insisting that in the outfit of the advocate the two things that are most important are : first, the ability and the willingness to work, so as to accumulate all the materials available ; and secondly, the judgment and the character which will winnow out these materials and select what is really necessary for the purpose in hand. Accumulation, selection, rejection—these, I think, are the reading, writing and arithmetic of advocacy.

I know it is said, and some people believe it most fervently, that since advocacy is the art of persuasion, the most important thing in advocacy must be the ability to make a flowery speech. Well, forensic eloquence has, so we are told by historians, flourished in various ages, but I cannot bring myself to believe that highly rhetorical periods really ever have had, either on judges or on juries, quite all the influence which historians and biographers assure you they did have in the case of the particular

subject of their admiration. At any rate, it is a product which does not keep. Can anything be more depressing than reading the rolling periods even of great speeches like Brougham's defence of Queen Caroline—I would almost say, of Burke's impeachment of Warren Hastings?

I think it is said of Lord Erskine that on one occasion when he appeared at the bar for a candle-maker before a jury at the Guildhall in the City of London, in an action for libel, he began by saying: "Gentlemen of the jury, the reputation of a tallow chandler is like the bloom upon a peach. Touch it, and it is gone for ever." I feel certain that Lord Erskine got considerable damages for his client, but I have great difficulty in believing that it was this rhetorical image which greatly weighed the scales in the plaintiff's favour.

The truth is that at its best forensic eloquence is like dry champagne—if indeed I may be permitted, in this part of the world, to make such a reference. That is to say, however effervescent it may be when the bottle is first opened, it is impossible to preserve it in a good state for very long. There is not very much difference, at any rate in courts of law, between bathos and pathos; even in the greatest oratory the line that divides them is a very

fine one. Everybody who takes an interest, as all lawyers must do, in the art of speech, recalls, perhaps, the most moving passage ever spoken in the British House of Commons in the last century—the passage in John Bright's oration dealing with the Crimean War which contains the phrase: "The Angel of Death is amongst us. You may almost hear the beating of his wings." And yet it is a good House of Commons' tradition that when Mr. Bright went out into the lobby and received the congratulations of his friends, one of them said: "It is just as well you said 'beating,' for if you had said 'flapping' we should have laughed."

I think it will be found—I believe, Mr. Justice Duff, that the judges would confirm this view—that for every sort of tribunal it is forcible and orderly statement far more than rhetorical elaboration which induces belief and effects persuasion; and, therefore, while we lawyers ought to study, to enjoy, and within our opportunities to practise, the difficult and dangerous business of rhetoric, I would beg every one of you, if I may presume for a moment to advise any of the younger amongst you, to eschew rhetoric as a substitute for work. Believe me, the effective way in which the vocation of advocacy is followed is far more

by devoting yourself to a precise and accurate understanding of all that is involved in the facts and the law of the case, and to a clear and orderly statement of the consequences, than in the use of high-sounding and rotund phraseology.

I had intended in what I first sketched out for myself to occupy some portion of my time, and perhaps a major portion of the time, in discussing a question which is always, I think, interesting, and one which is of importance both to professional lawyers and to those of the public who take an interest in the law—the question, namely, as to how it is possible to reconcile the duty and function of an advocate with the dictates of morality. But after I had accepted the invitation which the Canadian Bar Association so kindly conveyed to me, I found that last year there had been delivered at a meeting similar to this a most admirable address on this subject by Chief Justice Mathers. I have read it—I hope everybody has read it—with the greatest interest and appreciation. Therefore I will curtail what I had intended to say on this subject, though I will not entirely omit it. The problem is a familiar one. Most members of the Bar have been challenged at some time or other with the question, “How

is it possible, sir, that you should be prepared to defend a guilty man ? ” We all know that question, and it is worth considering it for a moment, because it has a direct bearing on the question as to what is the real nature of the vocation of the advocate.

How is it consistent with the duty of honour and candour to espouse what may be the worse cause, and perhaps, still more, to resist an argument which may turn out to be, and may upon its face appear to be, founded on truth ? How is it possible that the members of an honourable profession should lend their powers of intellect, judgment, experience, argument, to the wrong side ? I venture to put the real answer in my own way. The real answer, ladies and gentlemen, is that an advocate does his work under strict and severe restrictions of professional duty, imposed by a strict code of honour, for the very purpose of securing that he may discharge a task which is essential to the administration of justice, without selling his own conscience or being false to the duty which he owes to justice and to the State. The function of an advocate is not to ascertain the truth ; the function of an advocate is to present from one side of the case all that can be usefully and properly said in order that it may be

compared with what is presented from the other side of the case, so far as that can be usefully and properly said, and in order that the tribunal may then have before it these competing considerations and may hammer out for itself on which side the truth really lies.

Take, for instance, the true position of an advocate who has the duty of prosecuting in a charge of crime. There are a great many people who really believe that a barrister with a brief to prosecute a criminal is aiming at securing his conviction at all costs. That is a travesty of the whole profession of the law. The business of an advocate who is prosecuting a criminal is to be in the strictest sense a Minister of Justice. His duty is to see that every piece of evidence relevant and admissible is presented in due order, without fear and without favour ; and it is his duty to make sure that the evidence which is in favour of the accused is available and is presented with exactly the same force and fullness with which he calls attention to the circumstances tending to rouse suspicion against him. His business, in Othello's words, is this : " Nothing extenuate, nor set down aught in malice."

Now take the case of defending a criminal. What is the real duty of an honourable man

who has put upon him the heavy burden of defending a person accused of a serious crime? First, to devote the whole power of his mind and all the resources of his experience to the task. There is an honourable tradition, at any rate at the English Bar, that even a man who may be busy with many different cases, if he undertakes and is called upon to defend the meanest criminal charged with a crime, is bound to give his own personal attention to that work, odious and unremunerative as it may be, to the exclusion of all other business coming his way. And in what spirit should it be discharged? It is, I venture to say, essential to the cause of justice in dealing with any charge of serious crime that the service of a man professionally trained should be available to defend those who are accused; such a helper is needed to make sure that the most is made of every flaw and of every gap in the net which seems to be closing round the unhappy man; and thus you may secure that all shall be said on the accused's behalf which the accused could properly say if he were not embarrassed in his situation and thereby largely prevented from speaking.

According to some people, the law, in its effort to secure that the accused should get

fair play, has done nothing but make things worse for him. Time was when a man accused of a felony under the old common law of England stood there without counsel—unless, indeed, somebody could find a flaw in the indictment and counsel was assigned to argue the point. And the result was that juries and judges often refused to convict such people because they felt that they were not having fair play. Then a benevolent legislature intervened ; the accused person was deprived of that advantage, and was given the right to employ counsel. After hearing counsel for the defendant, juries were less squeamish about convicting. But the poor prisoner could not pay for counsel, and thereupon the legislature came forward and deprived him also of that excuse by arranging that in proper cases he should be provided with counsel for nothing. There remained now only one further refuge for the unfortunate man, who wanted nothing better than that he should sit still in the dock and say nothing and do nothing until the thing was over. It was always possible for his advocate, when everything else failed, to say : “ Ah, gentlemen of the jury, you have heard evidence against my client, but his lips are closed ; he has no right to take the witness stand and testify out of his own mouth as to

what happened.” Thereupon Parliament intervened and said, “ Oh, yes, he may testify if he likes,” and the last protection and refuge which the common law had cast round the person who was short of an adequate explanation has been removed—has been removed by the legislature in the supposed interests of the accused. It is good for the innocent, but it is troublesome for those with no explanation to give.

The object of the law which encourages advocates to defend persons accused of crime is not that guilty people, proved to be guilty, should escape ; the object is that while justice should be done so far as fallible human judgment can do it, we should run no risk that the innocent should suffer. Therefore, those who have been seriously concerned as to how an advocate can justify his appearing on the side which may turn out to be the wrong side, and how he can honourably defend a man in respect of a crime which there seems every reason to think he may have committed, must remember that the object of criminal courts is not to punish those who in their heart of hearts know that they are guilty ; the object of a criminal court is to administer proper punishment to those who are proved by adequate and forcible evidence to be guilty ; and it is vital, if you are

going to protect innocent people from the results of unmerited suspicion and unfortunate coincidence, that you should have the trained assistance of an advocate, bound by strict rules of honour as to the part which he has to play, in order that he may test the chain of evidence in every link and may see what reason there may be for urging that at some point it fails.

It is for that reason that by the universal tradition of every Bar which follows the old methods and principles of the common law, no advocate in any circumstances should ever permit himself to assert his own belief in the merits of the case which he is arguing. I think probably even the most experienced of us have sometimes found it difficult always to obey this rule, but it is a rule which is vital if justice is going to be done. For if once a man who is honestly convinced that he is arguing on the right side of a case is at liberty to assert his own personal belief in the cause which he is arguing, the day is not far distant when the cause which is not so obviously just will either have to go without defender or, what is even worse, will be in the hands of men who are prepared to simulate and to assert a personal belief in a cause in which they do not really believe. It is for that same reason that it is

as impossible and unthinkable that an honourable advocate should conceal or distort obvious, available testimony as that he should manufacture evidence. And it is these principles, which are most simply illustrated in the case of criminal trials, which, as I think, are the very life and soul of the honour of the Bar.

But I think, Mr. Justice Duff, if one is trying to give a correct account of this branch of the subject, one ought also, for the benefit of those who are not practising lawyers or judges, to add this. The real truth of the matter is, ladies and gentlemen, that the question, "How can you espouse the wrong cause?" is to a large extent based on a fallacy and a confusion. Law is a very complicated thing. We live in a society where fair dealing and justice are secured by a system under which the judges will ascertain how the law applies to the facts of the case, so that one man may be treated in the same way as any other man in the same circumstances. But in nine cases out of ten it is only at the end of the case, and not at the beginning of the case, that anybody knows for certain which side *is* the right side. After all, one of the great merits of the Bar is that people do not go to law unless there is a real problem to be solved. I have always thought that the

profession of the lawyer in this respect compares favourably with the profession of the doctor, and I might perhaps even say, with the profession of the spiritual adviser. Some people go to doctors when they are not really ill. People consult their spiritual advisers on problems which sensible men or women could, I think, very often decide for themselves. But nobody except a lunatic ever goes to law unless there is something very much the matter with him—unless there is at stake his life, or his reputation, or his wealth, or his home, or his honour, or one of those important things for the sake of which a man will think it worth while to litigate. Therefore the profession of the law, in that respect, is one which all of its members ought to regard as calling for the most special and unremitting devotion to duty. The case, my brethren of the Bar, may seem to be a small, unimportant case to us. It may be a small incident in the course of a long professional career, and when it is disposed of it passes from one's memory. But there is probably somebody to whom that little case which occupied so small a fraction of our own professional life means everything that is important, or everything that is dear. I think one of the finest things about the profession of

the advocate is that it is to him that men and women turn in a moment of the gravest personal anxiety. They put the whole issue into the hands, it may be, of a man whom they do not know, of whose record they may be imperfectly acquainted, but who, at any rate, has this recommendation, that he will devote himself to the end and to the last to serve the man or the woman who trusts him.

At the same time I think it must be admitted that difficult cases do sometimes arise in the course of advocacy under this head: "How are you to act when the contention in the case put before you conflicts with your own knowledge or judgment of the circumstances?" You remember, I have no doubt—perhaps I may be allowed to recall—the hard case and the sad case of Mr. Charles Phillips. Mr. Phillips was an Irishman; not the first Irishman that came to the English Bar, not the last by any means; an Irishman with many of the great qualities of that great race, who attained a considerable reputation, largely in defending criminals, in the middle of the last century, in London. Charles Phillips was called upon to defend, in the year 1840, a Swiss valet whose name was Courvoisier. Courvoisier was the personal servant of an old gentleman—I

think he was seventy-three years of age—Lord William Russell. He saw this gentleman to his bedroom the previous night. He left him in his chamber. Courvoisier himself lived in the basement of the house, and slept there until morning, and when the morning came and one of the women servants first went to rouse Lord William Russell, she found the place in fearful confusion, she found her master horribly murdered in his bed, signs of blood and violence on every side, and all the indications that there had been in the night a savage attack upon him, apparently for the sake of robbery. They not only found that, but they found that there were marks upon the door which led to the outside premises at the back, and there was every indication that the authors of this dreadful crime had forced their way in through this door and had made their way to this old man's bedroom while he was asleep, and there had foully murdered him. And Courvoisier, this Swiss servant, for reasons which the police believed to be adequate—it was in the very early days of what was then the new police in London, started by Sir Robert Peel and known as “Bobbies,” and they were very zealous in their duty—this Swiss fellow Courvoisier, being suspected, was put on his trial for murder, and

Charles Phillips undertook his defence. He defended him with vigour and skill. The evidence against Courvoisier was serious, because some, at any rate, of the things which had been stolen had not been carried away from the house, but were found hidden in places where it seemed more natural that a servant who knew the premises would hide them than anyone coming from outside ; and what was worse, Courvoisier, the valet, who used to wear when he was waiting at table white linen gloves, had apparently got a pair of white linen gloves much stained with blood, which he had been at pains to conceal. And in the middle of that trial at the Old Bailey, when Phillips was doing all that he honourably could, with his Irish brilliance, to defend this Swiss servant, Courvoisier indicated that he wanted to speak to Charles Phillips, and he told Charles Phillips that he had committed the murder ; and, having conveyed this surprising piece of information, he said : “ And now I rely upon you to do the best you can to prove that I have not.”

Many people think that this often happens in the course of a criminal lawyer's experience. I am quite sure that it is not so. The natural attitude of a man, who means to fight against a charge of crime, to deny the imputation in the

face of the world, is the attitude which he also takes up in communication with his professional advisers. At any rate, it has always been so in my experience.

Well, what was Mr. Phillips to do? It so happened that in addition to the Chief Justice who was trying the case there was sitting on the Bench another and a very famous judge, Baron Parke, and to Baron Parke—who was not himself trying Courvoisier, of course, but was none the less sitting there beside the Chief Justice—this unfortunate Charles Phillips went in the greatest distress, and he inquired from Baron Parke what course in the learned judge's opinion he as an honourable advocate ought to pursue. And Baron Parke told him that unless Courvoisier released him from the obligation which he had accepted to act as his advocate, his duty was to go on with the defence, notwithstanding the fact that his confession had been made to him. So he went on; but whether from excess of zeal or from some other cause, his conduct, when the circumstances became known, incurred much censure.

Charles Phillips is dead now, of course. I believe that the advice which Baron Parke gave to him was quite right, and so far as I have been able to follow what subsequently happened,

there seems to be some ground for fearing that Phillips was not very generously treated. It was said of him long afterwards, but I think quite falsely said, that in the course of the defence which he set up, after having had this confession of guilt, he used arguments which endeavoured to throw the suspicion of the crime upon some other person. I do not think he did ; although I entirely agree that if he did so, it would be a highly improper thing in the circumstances to do. But I tell that story because it does illustrate what I believe is a very rare situation in the history of practical advocacy.

On this part of the subject let me end by reminding you of a quotation from Boswell which puts the point with the greatest neatness. Boswell records Dr. Johnson as saying :

“ We talked of the practice of the law. Sir William Forbes said, he thought an honest lawyer should never undertake a cause which he was satisfied was not a just one. ‘ Sir,’ said Mr. Johnson, ‘ a lawyer has no business with the justice or injustice of the cause which he undertakes, unless his client asks his opinion, and then he is bound to give it honestly. The justice or injustice of the cause is to be decided by the Judge. Consider, sir, what is the purpose of courts of justice ? It is, that every man may have his cause fairly tried, by men appointed to try causes. A lawyer is not to tell what he knows to be a lie ; he is not to produce what he knows to be a false deed ;

but he is not to usurp the province of the jury and of the judge, and determine what shall be the effect of evidence—what shall be the result of legal argument. As it rarely happens that a man is fit to plead his own cause, lawyers are a class of the community who, by study and experience, have acquired the art and power of arranging evidence, and of applying to the points at issue what the law has settled. A lawyer is to do for his client all that his client might fairly do for himself, if he could. If, by a superiority of attention, of knowledge, of skill, and a better method of communication, he has the advantage of his adversary, it is an advantage to which he is entitled. There must always be some advantage, on one side or other ; and it is better that advantage should be had by talents than by chances. If lawyers were to undertake no causes till they were sure they were just, a man might be precluded altogether from a trial of his claim, though, were it judicially examined, it might be found a very just claim.”

Now, ladies and gentlemen, in one or two concluding words—for I have detained you a long time—let me beg you to remember that, while we have been discussing in its narrower sense the advocate’s vocation, it is the peculiar glory of the study and the practice of the law that time and again in the story of every great democracy men trained in the law, imbued with its spirit, jealous of its rights, confident of its powers, have proved to be wise guides and brave servants of the public. There must be many of you who, like myself, feel that a man’s livelihood ought not to be the whole of a man’s

life. We feel that one of the great attractions of this profession—this career open to every man of good health and good brains, without regard to ancestry or wealth or station—is that it is a road to public service. I said when I began that lawyers as a class were often objects of suspicion. Let us set against that the fact that in England, in Canada, in the United States—wherever the law, as we understand it, is practised—it has often happened that lawyers have found that their brief was liberty and that their client was the commonwealth. The seventeenth century in England, the eighteenth century in America, the record of your distinguished political leaders throughout the history of Federation—these things are enough to show that the profession to which we belong is one which may fairly claim that it has made no small contribution to the cause of constitutional and political progress. For it is possible by the study and the practice of the law not only to render an essential service to the private citizen, but to fit ourselves for the greater work of helping to secure that government is what government ought to be.

XIV

A LECTURE ON LABRADOR

[Delivered before the University of Oxford in the summer of 1927.]

THERE has recently been decided by the great Court of the Empire, the Judicial Committee of the Privy Council, a controversy which, in the range and importance of the issues raised, far transcends any ordinary topic of litigation and makes some of the matters involved well suited for the study of Schools of History and Law in these secluded academic groves. It is the melancholy handicap of forensic disputation that once a decision is reached, old briefs are quite unreadable, and sometimes nothing is left behind except a Bill of Costs. But the dispute between Canada and Newfoundland over Labrador was a contest worthy of the arbitrament of a Roman Senate, and some account of what was involved, while it is fresh in my mind, may be thought interesting to the students and teachers of the university I love.

The peninsula of Labrador has an area of about 511,000 square miles, and is therefore about the size of France, Germany and Italy together. Its deeply indented coast line fronting the Atlantic runs from Cape Chidley, almost within the Arctic Circle, at the entrance of Hudson Straits, to the Strait of Belle Isle, which is a narrow band of water separating it from the Island of Newfoundland. Its southern boundary is the northern shore of the Gulf of St. Lawrence, while on the north and west Labrador stretches over an immense area of icebound and almost uninhabited country, running up to Ungava Bay and Hudson Bay, the southern portion of the latter being called James Bay after James the First of England and Sixth of Scotland. It was there that the explorer Henry Hudson, who had sailed in the *Discovery* to attempt the North-west Passage, quarrelled with his mate, was seized and bound by his crew and put with eight others in a small boat, cut adrift, and never seen again. That was in the summer of 1611—just at the time when Dame Dorothy Wadham was consoling her recent widowhood here in Oxford by completing the building of the college that bears her name.

This immense and little known peninsula

of Labrador is connected with the main body of Canada by an isthmus of land some 450 miles across and lying between James Bay on the north-west and the St. Lawrence estuary on the south-east. It is interesting and instructive to remember that this comparatively short line of 450 miles connects areas which even to-day recall, by the names they bear, the ancient rivalry in those parts between British and French explorers and traders. On the one hand we find James Bay and Rupert River and Hudson Bay and Button Bay, Cape Wolstenholme, Southampton Island (called, I suppose, after the Earl of Southampton, Shakespeare's patron, who helped to fit out Hudson's expedition), Charles Island and Cape Henrietta Maria—a whole series of titles recalling how, in the time of the Stuarts, adventurers under British authority pushed their exploration and made their settlements in the far north of Canada.

The Hudson Bay Company received its Charter from Charles II in the year 1670, and the first name among the corporators was "our dear and entirely beloved cousin, Prince Rupert." The grant to the Company was a grant of "the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks

and sounds, in whatever latitude they shall be, that lie within the entrance of the Straits, commonly called Hudson Straits, together with all the lands, countries and territories upon the coasts and confines of the seas, straits, bays, lakes, rivers, creeks and sounds aforesaid." To the Governor and Company of Hudson's Bay were granted almost absolute lordship and proprietorship of the territories referred to, but the King of England's overlordship was recognised by a stipulation that this famous Company should "pay yearly to us, our heirs and successors for the same, two elks and two black beavers whensoever and so often as we, our heirs and successors, shall happen to enter the said countries, territories and regions hereby granted."

So much for the more northerly end of the imaginary line which crosses the neck of land uniting the peninsula of Labrador to the main body of Canada. But on the southern end of this imaginary line, little more than 400 miles distant, you strike the Saguenay River and Tadoussac, Bersimis Point, Sept Isles and Mingan, and other trading establishments of French Canadians who established contact with the redskins, and derived their title from Louis XIV and other French kings, settled

in New France, and exploited the resources in furs and fish of the Royaume du Roi. Cardinal Richelieu had established as early as 1627 a French trading company called the "Compagnie de Canada," and the Intendant of Quebec granted trading monopolies in the name of his Sovereign. So that in this region you had in constant touch, and in not infrequent conflict with each other, rivals and competitors for an area largely unexplored, the precursors of a final conflict commemorated by that noble inscription on the Heights of Abraham recording the common valour, the common fate, and the common immortality of Wolfe and Montcalm, and culminating after much controversy and misunderstanding in the united loyalty of the self-governing Dominion of Canada to-day.

The controversy, known as the Labrador Boundary Dispute, which was laid to rest by the decision of the Privy Council on March 1st, 1927, was a dispute between the Dominion of Canada on the one hand and the ancient Colony of Newfoundland on the other, as to a portion of the peninsula of Labrador amounting to about one-fifth of the whole. It is an extraordinary fact that although the reference of this dispute to the Privy Council was only

resolved upon in 1920, and the argument only took place in October and November, 1926, the most important documents and events upon which the controversy turned and by reference to which it was decided, are of a date so long ago as 1763. This is not, however, to be set down as an example of the "law's delays," but is due to the fact that until quite recently the region in dispute (though it is larger than the whole of Great Britain) was regarded as of little or no value. It consists mainly of dense forests and bleak and inhospitable table-lands: the interior is almost entirely uninhabited except by a few Indian families, and not even the attraction of living in an area without the twin benefits of taxes and votes could draw more than a few trappers in search of furs, bands of fishermen whose lives put one in mind of Kipling's "Captain Courageous" and Pierre Loti's "Pêcheur d'Islande," and missionaries such as the high-minded and devoted Dr. Grenfell. Nobody much cared whether this *terra incognita* belonged to Newfoundland or Canada, and so the boundary remained undefined. But towards the close of the last century, when the output of the newspaper press began to reach those heights which have conferred such blessings on

mankind, and have reduced the curators of the Bodleian to despair, it was first realised that the vast quantities of spruce and other timber in the interior of Labrador were suitable for pulping, and since newspaper print is made out of pulp, and concessions for cutting timber are a source of public revenue, the controversy arose as to where the Labrador boundary should be drawn.¹

The adventurers who discovered Labrador during the latter half of the sixteenth century—Frobisher, who first saw Hudson's Straits, and Davis, who crossed the mouth of the straits, and sailed down the coast of Labrador to the 52nd degree of North Latitude, landing at what are now known as Davis and Hamilton Inlets—could not have suspected that the area they helped to discover would remain in disputed ownership until the Napoleons of Fleet Street hundreds of years later were in danger of running short of newsprint. But so it was. In 1902 the Government of Newfoundland, following a policy it had already established, issued a licence for cutting spruce

¹ Sir John quoted, in concluding the argument for Newfoundland, the scathing lines of Petronius Arbiter on the motive underlying Roman Imperialism:

“ Si quis sinus abditus ultra,
 “ Si qua foret tellus fulvum quae mitteret aurum,
 “ Hostis erat.”

timber in the neighbourhood of the Grand or Hamilton River in the interior of Labrador ; the Government of Canada protested and claimed jurisdiction ; and the controversy which had been lying dormant for 140 years awoke, until it was finally ended this spring by a Judgment delivered by Lord Chancellor Cave, whom we here in duty bound would rather describe in his academic character as the Chancellor of our University.

Both sides made the most elaborate and extensive investigation of the material useful to consider in order to decide the question at issue. The history of British North America between the victory of Wolfe and the Declaration of Independence had a close bearing, and much of it had to be elaborated by the use of documents in the Record Office never before printed and now forming part of the new material which will hereafter be found deposited in All Souls Library. For example, it became of great importance to determine with precision what was the area frequently referred to, but nowhere precisely defined, in the State Papers of the early years of George III as " the Indian country."

It is not, perhaps, uninteresting to note how the definition of the " Indian country " affected

the dispute. Newfoundland first obtained jurisdiction on the Labrador peninsula by a Commission appointing Captain Thomas Graves "Governor and Commander-in-Chief in and over our said Island of Newfoundland and all the Coasts of Labrador from the entrance of Hudson's Straits to the River St. John's." That Commission was dated April 25th, 1763. By the Treaty of Paris, concluded on February 10th, 1763, the King of France had ceded to the King of Great Britain (in effect) all the French possessions in North America east of the Mississippi ; and when Captain Graves's Commission added to the Island of Newfoundland, which was already under his government and command, the "Coasts of Labrador" within the limits which I have mentioned, but without indicating an interior boundary, the first step was taken in parcelling out into separate Governments, under the British Crown, the vast territories added to the British Dominions by the Treaty. The next, and far more comprehensive, provision for the division of the newly acquired lands into Governmental areas was effected by the Royal Proclamation of October 7th, 1763, which was perhaps the most important document in the dispute ; for by it the Government of Quebec was created

and its boundaries (forming a sort of lozenge) defined. Farther south, the Proclamation carved out areas to be called East Florida and West Florida; and a fourth unit was constituted the Government of Granada. By a further provision, the land and territories not included within the limits of the Governments created by or referred to in the Proclamation, or within the limits of the Hudson Bay Company's territories, were reserved under the Crown's Sovereignty, protection and dominion "for the use of the several nations or tribes of Indians for their hunting grounds." Now, inasmuch as Newfoundland was not one of the Governments created by the Royal Proclamation (though its jurisdiction on the Labrador Coast was referred to) it would have been a serious difficulty in the way of Newfoundland's success if it could have been shown that the Indian reservations extended into the disputed area. No boundary, so far as could be discovered, was ever drawn defining the Indian country or the Indian reserves. There was no doubt that a few Indians—Nascopies, Montagnais and Esquimaux (though it is doubtful if these last should be included as Indians)—were to be found in the Labrador peninsula and even in the disputed area. It

accordingly became most important to show where was that "Indian country" which the framers of the Proclamation of October, 1763, had in mind; and materials were carefully collected to show that in the summer of 1763, when the Pontiac Rebellion round the Great Lakes and to the south of them was at its height, those responsible for English policy were anxiously striving to satisfy and keep loyal the "Six Nations of the Iroquois." Records of the work of Sir William Johnson, the Administrator for Indian Affairs in the Northern District, whose head-quarters were on the Mohawk River, were hunted out from the Record Office and for the first time printed; and copies of the Treaties made by him with some of the Indian tribes (authenticated by reproductions of totems and spearheads), and the maps which accompany them, will be found interesting examples of British policy in relation to the Indians. George Washington was at this period an opponent of the conciliatory policy of the Home Government, and a supporter of the English settlers who were encroaching on the Indian hunting grounds west of Virginia. In a letter of September 21st, 1763, he described the Reservation as "a temporary expedient to quiet the minds

of the Indians," which would come to an end in a few years, as the Indians were consenting to the English occupying their land. All this is a deeply interesting field for historical investigation, and perhaps the School of History here may find some buried treasure to be unearthed below the necessarily limited scratching of the surface by litigants and counsel.

But the Labrador Boundary case is equally rich in the choice of pleasant excursions for the constitutional lawyer. It became necessary to appreciate and to trace the relations of departmental chiefs holding office 160 years ago as the Secretary of State for the Southern Department, the Commissioners for Trade and Plantations, and the Lords of the Admiralty. If your passion is physical geography and your delight is in a chart, two large volumes of maps, many of them dating from the middle of the eighteenth century and earlier, had to be compiled by careful reproduction from the British Museum and elsewhere. All this material was closely scrutinised for any light it would throw on the controversy in hand. But there is a cruel limitation set upon the efforts of lawyers and judges, who have to deal with a mass of interesting material, in that they are confined to the consideration of the matters

relevant to the question at issue, clamped within the four walls of the controversy in hand, and are only at liberty to glance through their prison bars at the delectable but irrelevant territory which freer men may explore and enjoy at their leisure. It is largely for this reason that I have hoped that students of history may find some of this specialised material worthy of their study.

The most fascinating controversies are often those which, while springing from a background of history, are immediately germane to present-day issues, and of these there is a double measure of attraction in such controversies as lie on the borderland of history and law. The Labrador Boundary dispute provides a great variety of intellectual exercise for those who are attached not only to the study of History but to the School of Jurisprudence. Newfoundland under the Statutes, Orders in Council and Proclamation was given, as I have already said, a territorial jurisdiction over "all the coasts of Labrador from the entrance of Hudson's Straits to the River St. John's which discharges itself into the sea nearly opposite the west end of the Island of Anti-Costi." But what extent of territory inland is indicated by speaking of the "*coasts*" of Labrador? The International lawyer would at once see that this raises a

question analagous to that which the law of nations has sometimes had to deal with, viz. how far a claim to a stretch of coast carries a right to territory inland. Again, the documents to be considered included Commissions to Colonial Governors, Instructions under the Sign Manual, other Instructions from the Admiralty addressed to the same person in his capacity as Commander of His Majesty's ships on the Newfoundland Station, and a Proclamation by King George III breaking up into separate Governments the immense area which constituted British North America after the defeat of the French and the Treaty of Paris, 1763. The Constitutional lawyer will find it a congenial task to give each of these documents its appropriate weight and to deduce the result in English law which flows from their conjoint operation. Then again, these documents, as well as Acts of Parliament which altered the boundary between that part of Labrador which was attached to Newfoundland and the rest, were drawn up and enacted at a time when no one knew with any precision what the physical characteristics of the Labrador interior really were. If "coast" means the whole watershed bounded by the height of land, then an area of Labrador "coast" was

being added to Newfoundland without any knowledge of the depth or extent of the area in question. Yet here are the documents, the language of which has to be construed. It may well be (and, indeed, it is obviously the case), that the draughtsman was relying on imperfect maps, or was using language without any idea that his choice of words would afterwards be found to cover a great depth of territory. What is the probative value or the proper application of the old maps in such a case? On what principle, then, is the boundary indicated by such documents to be located? It is undoubtedly true that the advisers of George III, when they put a portion of the coast of Labrador under the Government of Newfoundland, were doing so merely because it was convenient that Captain Graves (for the Governor of Newfoundland was also an Officer of the Royal Navy) should supervise the fisheries for cod and other fish conducted by annual expeditions of British fishermen who lived as best they could during the summer months on the actual margin of the sea. But though this may have been the only purpose to be served by annexing this portion of the Labrador coast to Newfoundland, how does the matter stand, if the language is such that

upon its true construction "the coast" stretches back to the watershed? This is a problem of construction and interpretation which had enormous practical importance to the parties in the case, and provides a very pretty conundrum for those whose business it was to solve it. The Privy Council says that we must remorselessly apply the principle that words must be given the meaning which they actually bear, and that they cannot be cut down merely by emphasising the motive which caused them to be used. The true view is, as the judgment of the Privy Council explained, that though Lord Egremont, George III's Secretary of State, and his colleagues doubtless considered no part of the area as of any practical importance except the selvedge of the sea, they cheerfully used language which would carry the jurisdiction of Newfoundland farther inland—and all the more cheerfully perhaps because the backland at that time must have appeared to be practically worthless. Just so may a bibliophile, in making a purchase, have no other motive than to acquire a single volume in a second-hand collection, and if he thinks that the rest of the collection is rubbish and is worth nothing to buy or to sell, he may without much reflection contract to buy the

whole library for the sake of its single treasure. But that is no reason for saying, if it afterwards turns out that the rest of the books, which at the time everybody despised, are also valuable, that he has not bought the lot. For in construing and applying written language the only safe rule is to apply it according to the meaning of the words used; and it is no answer to say, if the words clearly mean one thing, that those who used them may well have been supposed to have been thinking of something less than the whole.

But while Newfoundland was claiming (and by the Privy Council judgment obtained) the whole area back to the watershed—and a depth in some places of 490 miles—Canada contended that a grant of “Coast,” especially in view of the admitted fact that the primary object of the arrangement was to enable the nautical Governor of Newfoundland to supervise and control fishing on the Atlantic border of Labrador, gave to Newfoundland nothing more than a narrow strip. Thus arose a species of inquiry so beloved of logicians and lawyers and so disliked by witnesses¹—How thick *is* “a narrow

¹ How many grains make a heap? Or, as Mr. Skimpin put it to Mr. Winkle in the course of the “edifying brow-beating customary on such points,” in chapter XXXIII of “Pickwick Papers,” when the witness agreed that he had often seen Mrs. Bardell—how many times *is* “often”?

strip of coast"? "One mile," said Canada (though the documents said nothing about one mile). Moreover, the coast line was deeply indented, and the difficulties of the Canadian contention were not diminished by the further question whether this one mile of coast line ran round the heads of all the bays, or whether it occasionally skipped across a narrow mouth.

A glance at the map will show what a very important feature geographically was provided by the Hamilton Inlet and River. The inlet itself is 150 miles in length, measured as far west as the North West River, and the River is 500 miles long. But apart from its importance as a geographical unit, it was the most important area in value in the disputed territory. Along the river are several falls, including Muskrat and Grand Falls, the latter of which is second only in magnificence and power to Niagara. There is unquestionably great scope for the development of water power, and the timber to be found in the country adjoining the river suggests that there will be vast opportunities for lumbering also. Both sides made elaborate preparations to deal with this area in a separate compartment of the case, and although in the actual argument and

in the view ultimately taken by the Privy Council this compartment was of little importance, the material collected is full of interest. The Canadian Government carried out a special survey of the inlet, making elaborate investigations into the slope and rate of flow of what it regarded as a river, the types of flora and fauna to be discovered, the salinity of the water at different spots, and the geological data available. In the Appendices will be found not only the results of this survey, but also the reports prepared by experts like Professor Gregory, Dr. Hjort, Dr. Kindle, Professor Douglas Johnson and others, on the Hydrography, Physiography and Geology of the area. On the purely legal side it will be found that authoritative statements of the law were collected as to the extent of the public right of fishery and as to the distinction between river and sea.

One point advanced by the Canadian Government was that inasmuch as the admitted purpose of the grant to Newfoundland was to extend to Labrador the open and free fishery already carried on upon the coasts of Newfoundland itself, the extent of the interior land comprised in the word "coast" or "coasts"

ought to be restricted to what was necessary for the proper conduct of the cod fishery which was the staple business of the fishermen who went to Newfoundland. In this connection there are included in the Appendices illustrated accounts of the manner in which this fishery used to be and still is conducted, including the erection of " flakes," which are wooden structures on the sea-shore for the curing and drying of fish.

Other materials are also included which deal with the activities of the *Unitas Fratrum*—a Society of Moravian Missionaries who settled on the coasts of Labrador as early as 1765 with a view to carrying the Gospel to the Esquimaux, and obtained grants of land in 1769, 1774 and 1821. The establishments thus made at Okkak, Hebron, Nain and Hopedale still carry on their good work to-day.

The details of this great dispute will be soon forgotten. Some of them may perhaps be exhumed from time to time hereafter by experts who search the records tucked away in a secluded corner. But for all who had their part to play in the controversy, the name of Labrador will always recall the memory of a dispute hotly waged with perfect amity between two

Dominions of the Crown, and happily solved and concluded by the decision of the Imperial Court whose jurisdiction they joined in invoking to determine it.

XV

THE OXFORD UNION CENTENARY

[The Oxford Union Society was founded in 1823, and has existed ever since as the principal debating Club of the University. At its Jubilee Banquet in 1873, "Mr. H. H. Asquith, of Balliol," was the Secretary (he became President in 1874). Lord Chancellor Selborne, Archbishop Tait, Lord Chief Justice Coleridge, Mr. G. J. Goschen and Cardinal Manning were among the speakers—they had all been Presidents of the Union. Mr. Gladstone's absence was only due to an accident.

In 1923 the Union Society reached its centenary, and the occasion was celebrated by a corresponding banquet on February 29, 1924. The principal speakers were again all ex-Presidents of the Society—Mr. Asquith, Lord Curzon, Lord Cecil, Archbishop Lang, Lord Midleton, Bishop Temple, Lord Birkenhead, and Mr. Belloc. Sir John Simon, who was President of the Union in 1896, proposed the first toast.]

MR. PRESIDENT, YOUR GRACES, MY LORDS AND GENTLEMEN : I have the honourable duty of proposing to this company—with the brevity which is appropriate to so formidable a toast list—the toast of "The University of Oxford," and to associate that toast, as in duty bound, with the honoured name of our Chancellor,

Lord Curzon. This is, I suppose, one of the largest, as it is certainly one of the most representative, gatherings of Oxford men of which there can be any record, and it is a stimulating thought that with one single bold exception, we are met without the presence of a single Cambridge man. We welcome very heartily the presence of the President of the Cambridge Union Society, for the more ancient Society of the Junior University has already celebrated its centenary. But he and our other guests from Edinburgh, Dublin and Durham, will excuse the rest of us if to-night we indulge in a little complacency. To-night, at any rate, we may be pardoned if we permit ourselves the expression of our secret conviction that this University is the greatest of human institutions, that to belong to it is to share in one of the best things that life can offer, and that to revisit it is to draw refreshment, even for the most jaded of us, from the perpetual fountain of youth.

There is not, as some commentators outside mistakenly suppose, a single Oxford type, any more than there is a universal Oxford manner. Our *alma mater*, stern disciplinarian as she is, has not forced all of us into the same mould, as anybody can see who compares the outline

of Mr. Belloc with the appearance of Viscount Cecil. But there is something individual and distinctive that Oxford gives which is the common possession of us all. No Oxford man, I think, can be more conscious of it than those, like Mr. Asquith and myself, who have recently had to serve on the Royal Commission on the Universities of Oxford and Cambridge. The chief difficulty of the Commission was that it had to deal with both Universities at once. Our admirable Cambridge colleagues have helped to draw up a report which is a most excellent concoction, and the only criticism to which it is exposed is this, that every Cambridge man detects in it an unpleasant taste of the Isis, and every Oxford man alleges that it smells of the Cam. Both alike criticise the mixture and complain—*In Tiberim defluxit Orontes*.

As I am asked not only to propose this toast but to associate with it the name of our Chancellor, let us here recall in gratitude that for a long time past the relations between those two authorities, the University and the Oxford Union Society, have been of the most friendly description. I gather from the history of the Society—for the writing of which we owe so deep a debt of gratitude to my friend Mr.

Morrah—that it was not ever thus. In the first days of the Society, nearly a hundred years ago, the historian describes how persistent academic persecution made membership of the Society much like the experience of the early Christians. The founders of the Union were compelled to meet from week to week, each time in a different place. But for nearly a hundred years peace has reigned between these two great powers, and the last assault—an unavailing effort on the part of the University—took place in the year 1826 at a moment when the Society was in Session, when Samuel Wilberforce was on his feet, and there came a proctorial order to disperse. Let us members of the Oxford Union Society celebrate the name of the man who drew up the answer to that final challenge. His name was Marshall, of Magdalen, and the language of his communication was worthy of the fellow countryman of Pym and of Hampden. “Sir,” the message ran, “this House has received the Proctors’ message and will send an answer to the summons by an officer of its own.” Since that day there have been, I believe, no unpleasant scenes between the University and the Union Society, and we are glad indeed that here at this Banquet when we celebrate the centenary of the Society,

we are allowed to associate the toast with the name of our Chancellor. Indeed, I remember thirty years ago that so pleasant and indulgent were the University authorities that no objection was taken to the moving at the Union of this motion : " That this House would welcome any scheme for associating undergraduates with the government of the University." That proposition was fervently recommended by reference to the principles of 1789 by a scholar of Balliol named Belloc ; and it was resisted, with a gravity which at once marked him out as a future Conservative Statesman, by a scholar of Wadham named F. E. Smith.

Now, gentlemen, what is the secret, what is the essential secret, which makes every one of us, all our lives long, feel a special thrill when we think of how much this great University has given to us and how impossible it is to repay even the smallest part of the debt ? It is, I think, fundamentally this : Oxford, like a wise mother, lets each one of her children find in her the special solace that he individually needs. Boswell records the sentiments of Dr. Johnson when in his old age he revisited this place. " He seemed," says Boswell, " to find himself elevated as he approached Oxford—that magnificent and venerable seat of Learning, Orthodoxy

and Toryism." To Matthew Arnold she was "that sweet city with her dreaming spires," and to every one of us she is the storehouse of memory ; she is the focus of our earliest and firmest friendships ; she is the source from which we have drawn our first impressions of manhood ; she is the refuge to which we come back, old as we may be growing, in order that we may dream of the days when we were young.

To-night every one of us can repeat with a full heart the words that were employed on his last visit to our own Debating Hall, by one of the greatest ornaments in the long list of famous men of this Society—Mr. Gladstone. Lord Morley has recorded how that great man "amid the manifold mutations of his career to Oxford offered an affection which was as passionate as it was constant." You will recall, and I invite you in your hearts to repeat, the noble words in which Gladstone in our own Debating Hall declared his feelings for this place. Every one of us may say, as he did then, "There is not a man that has passed through this great and famous University that can say with more truth than I can say, that I love her from the bottom of my heart."

XVI

SIR WALTER SCOTT

[The following address was delivered at Edinburgh, on December 13, 1913, at the Twentieth Annual Dinner of the Edinburgh Sir Walter Scott Club, of which the speaker was President for the year.]

MY LORDS AND GENTLEMEN,—I rise for the purpose of proposing for your acceptance the toast of the memory for the sake of which we are gathered together to-night—the Immortal Memory of Walter Scott. Permit me first to express to the Members of this Club my gratitude to them for the honour they do me in making me their President for the year. The offer of such a distinction presents a temptation impossible to resist, but the acceptance of such an offer involves a task difficult to discharge, and I am speaking the language of truth when I say that I view the discharge of it with considerable misgiving. This is the twentieth year of the Sir Walter Scott Club, for it was founded in the year 1894, and though the topic which we are met to bear in mind can never be

stale, flat, or unprofitable, it is not given to those who from time to time occupy the presidential chair to imitate the talents of Sir Walter in presenting year after year ancient considerations under a new guise. And, moreover, I labour under this special disadvantage. Your indefatigable secretary, after I had accepted the invitation of the Club, provided me with a copy of its "Transactions," and, perusing them as I came up from the South to-day, I found that your Presidents hitherto have either been eminent Scotsmen who share the great honour of joint nationality with Sir Walter Scott, or else have been citizens of the commonwealth of letters, like our lamented friend, George Wyndham, or like the ever-delightful Mr. Birrell, who may claim a cousinship with Sir Walter, not so much of blood as of occupation and interest. I have neither of these qualifications, and while, therefore, I have less claim upon your attention, I have a stronger need for your indulgence.

And, indeed, an Englishman brought up to Edinburgh in order to take part in such a celebration as this, feels a little like a captive barbarian who is attending a Roman triumph, where the conquering race watches with complacency his feelings when he realises how

proud every son of the Imperial city is to claim that he is a fellow-countryman of the noblest Roman of them all. And an Englishman who travels up to Edinburgh, realises long before he gets there that Scotland is so named after its eponymous hero, Walter Scott. He crosses the Tweed—it may be that he adopts the “Waverley route”—and as he passes Melrose, he compares the luxury of modern travel with the dangerous and difficult night-ride of Deloraine. Kelso, where Walter Scott was at school, is close by ; and also Jedburgh, where as he was dying, he was denounced, honest Tory that he was, because he had no faith in the first Reform Bill. As the train slows down, it passes Portobello Sands, where the Cornet of the Edinburgh Volunteers indulged in his martial exercises. The express pulls up at Waverley Station, and as he issues into your city of Edinburgh, he remembers that Sir Walter called it “Mine own romantic town.” He finds himself in a street which is indeed fitly named the street for Princes, and there he sees the King of the Romantics enthroned in a great monument.

I, as a poor foreigner, cannot hope to deal with this theme with the intimate confidence which is proper for those who remember that

Walter Scott is their fellow-countryman. It is not for a mere barbarian to remind Scotsmen of what Walter Scott has done for Scotland, but you will, I hope, permit me to make this one observation about it. It was Scott, with his influence, his enthusiasm, his genius, who did much to unify your country. He accomplished with the pen for all time, what the policy of Kings and Governments had hardly been able in a century to accomplish. By drawing with a sure hand, with unchanging comprehension and sympathy, a picture of every class of your countrymen—the Highland chieftain, the Lowland farmer, the Glasgow bailie, the dominie, the writer, the gardener, the fine lady in her castle, the village girl in her cottage, every picture palpitating with life, compact with character, each designed differently, and yet all entirely Scottish—by that accomplishment he established the essential indivisibility of Scotland in the face of the habitable globe. How happy is a country whose unity has been secured by genius so rare, and by arts so peaceful! How fortunate would some other countries be, if there, too, there might arise some Wizard, who, by a comprehension of all that is good and characteristic in all his countrymen, might create the reconciliation which

force will never secure. It is curious to reflect, as Sir George Douglas and General Wintour have both reminded us, that Scott, who, by that literary achievement accomplished a result of statesmanship far more significant than might have been secured even by the most overwhelming force, should none the less have rated so low the art of the man of letters, and should have felt so keenly the superior claims of the life of the man of action. Many of you will remember the words which he wrote to Lady Abercorn :

“ My heart is a soldier’s, and always has been, though my lameness rendered me unfit for the profession which, old as I am, I would rather follow than any other.”

And again, in earlier days, how he said :

“ Ever since I was a child, I have felt a regiment of soldiers tramping through my brain.”

The world of letters does not know how much it owes to the physical infirmities of literary men. Which of us can estimate how much difference it would have made if Homer and Milton had not been blind, if Robert Louis Stevenson had not been delicate, if Thomas Carlyle had not been dyspeptic, if Walter Scott had not been lame ? And as many who are so kind as to attend to me will recollect Scott’s

military ardour in the midst of his literary success has often been contrasted with General Wolfe's famous declaration at a critical moment in our Island's story, when he asserted that he would rather have written Gray's "Elegy" than take Quebec. What is, I think, not so well known is that Walter Scott himself heard that story repeated here in Edinburgh at a dinner table, in his old age, by the man who, in the legend, is described as "the young lieutenant," to whom the words were spoken. You will find the fact in a little-known letter which Scott wrote to Southey long afterwards, in, I think, 1830. His name was Robison. He was not a lieutenant in the Navy at all; he was a young mathematical student from Glasgow, and he was out with the British Fleet on the St. Lawrence acting as tutor to the Admiral's son. It was to him that Wolfe repeated the famous lines, and made that memorable declaration; and, long after, Sir Walter himself heard that story told by Professor Robison, of Edinburgh, and recounted it in due course in a letter that he wrote to Southey.¹ I wonder how such a preference on

¹ Scott's letter to Southey (who was contemplating an edition of the letters of Wolfe) was dated September 22, 1830; an excerpt from it is printed below (p. 272). There are in

the part of General Wolfe for books over battles must have sounded to Walter Scott—Scott, who in the summer of 1815, just when he had taken the world by storm by the issue of “Waverley,” abandoned his writing in order that he might, without delay, make his way to the field of Waterloo, where, within five weeks of the defeat of Napoleon, he was examining every detail of the ground?

Such, my Lords and Gentlemen, is the discontent which sometimes is the child of the marriage of Genius with Modesty. That sort of discontent also, from time to time, has an illegitimate origin. I have known politicians who are firmly convinced that if fate had only been more kind they would have attained an unparalleled success in the arts of forensic advocacy. And I have met lawyers who are firmly persuaded that Providence has been very unfair to them because, instead of being left to the undivided pursuit of statesmanship, they are called to the cultivation of that profession

Edinburgh two portraits of Robison by Raeburn, one in the University, and the other in the rooms of the Royal Society. The mezzotint, after the Raeburn portrait, by Charles Turner, is well known and highly prized by collectors. Two other direct hearers of Professor Robison's story are on record, viz., Professor Playfair (“Transactions of the Royal Society,” Edinburgh 1815, vii. 495), and W. W. Currie—before Robison's death—in a letter in 1804 (“Life of James Currie,” ii. 248).

which Walter Scott himself declared to be "the irksome and even hateful profession of the law."

And now I would invite you for a few moments, my Lords and Gentlemen, to consider what are the outstanding features in Scott's writings and methods which make him, for those of us who are not Scotsmen, the typical Scot, the great exemplar of the soul of a people. First, I would put his intense fidelity to a national ideal. He stored his mind with Scottish legend, and poetry, and history, and minstrelsy, and scenery; he cultivated and he enjoyed the society of every class of his own countrymen, until he was ready in the outpourings of his own spirit, to justify Scotland to mankind. And to my mind, it is equally remarkable to observe what were his dislikes and his deficiencies in those earlier studies. I call them early, though, as you all know, Scott was one of those (perhaps it is an encouragement to the younger of us) who only published his first novel, like Thackeray and like George Eliot, when he had reached the mature age of forty years. Scott never learned Greek. How that came about, when he was a student of the Edinburgh High School, and came under the severe classical discipline of Edinburgh

influences, will always be a mystery. He composed an essay as a student, designed to prove the apparently hopeless proposition that Ariosto was a greater writer than Homer. He resisted all those cool, precise, elaborately-formulated influences which may be called classical, and he threw the whole weight of his attachment and devotion into that which was romantic, and that which was Gothic. He centred himself, from the time when he was a mere child, in that portion of literature and tradition which was most naturally attractive to his genius ; and so it came about that when the time came for him to write his cycle of romances he presented to the world outside Scotland, to England, and to the Continent, an epitome of all that is involved in the Scottish character. His scenery, mark you, was usually Scottish, and even when he takes his readers abroad he does what is not uncommon with Scotsmen—he takes good care that a Scotsman accompanies the expedition. The plot of “The Talisman” is not laid in Scotland, but its hero is a Scot. “Quentin Durward” has to do with a great period in the history of the French, but its hero is one of your fellow-countrymen. Moreover, and this is the fundamental point, it is not merely that he stored his mind with the story of your civilisation, it

is not merely that he threw the whole influence of his devotion into this patriotic channel; when he came to write, though the scenery was elaborate, though the stage was carefully and fully decked and dressed, though the time may be archaic, and the manners may be the manners of a past age, there is at the bottom of his characters that which will last as long as the world lasts, and that is, the essential human nature that knows no date or clime. It has been said by a critic, and I do not think that it is an exaggeration, that Walter Scott "scoticised European literature." The famous words, spoken long ago by a Scottish Judge, when the identity of the author of "Waverley" was fully disclosed, are well known to you all, but they will bear repeating :

"He it was who has opened to foreigners the grand and characteristic features of our own country."

Any man who searches the history of European literature from the date of Waterloo, will discover that it is true to say that the influence of Scott in Germany or in France was so sudden and so great, that the revolution he effected was hardly less subversive and hardly less violent than the recent revolution in Paris,

which he would have been the first to condemn. Take four great historical romanticists of France—Victor Hugo, Balzac, Mérimée, Alfred de Vigny—all four of them, were their spirits here to-night, would join with us in asserting that it was the romantic inspiration of Scott which had much to do with their productions. When Scott visited Paris in 1815 (on that same excursion, if I mistake not, when he went to the field of Waterloo) he found there gathered in the French capital many an eminent European commander, and there is a curious story to the effect that Hetman Platoff, the famous Cossack general, was riding his horse in the street, when he recognised Scott's characteristic features, and leapt off his horse and kissed him on both cheeks with extraordinary demonstrations of affection. Then there was Goethe. I have a letter here which Goethe wrote to Scott in January, 1827. It is not a very long letter, and I will give you an extract :—

“ I thus acquit myself of a duty which I had long ago felt to be incumbent on me, to acknowledge the lively interest I have during many years taken in your wonderful pictures of human life. I have not wanted external stimulus enough to keep my attention awake on this subject, since not only have translations abounded in the German, but the works are largely read here in the original, and

valued according as different men are capable of apprehending their spirit and genius. And I remember that such a man in his youth made himself acquainted with my writings, and even introduced them in part to the knowledge of his own nation, and will defer no longer, at my now very advanced age, to express my sense of such an honour."

And Goethe summed it up a year or two later when he said: "All is great in the *Waverley Novels*—material, effect, characters, and execution." In this marvellous, sudden, and almost spontaneous outbreak of romance on the continent of Europe, inspired as it so largely was by Walter Scott's own productions, even we English have a share, for the great Dumas (committing what is, I know, in the eyes of a Scotsman the greatest of all offences) confused England with Scotland, and once declared that he tried to think kindly of the English when he remembered that they had produced both Shakespeare and Scott.

And with all this, is it not a proud reflection for you, his fellow-countrymen, that all his genius did not prevent so generous and unstinted a bestowal of his powers, and never affected the essential modesty of his character? I think if one was to select a single quality about him which really strikes one more than another

in the literary sphere, it would be his extraordinary exuberance. The output was amazing. The rapidity with which he produced his romances—twenty-three novels in fourteen years—was wonderful; but it is the utter abandon with which he bestowed his material upon mankind, it is the prodigality with which he set his stores before us, which marks him as the genius that he was. Let me suggest a test. Here is an assembly of Scotsmen who cultivate this great author as a constant duty and an unfailing pleasure. Where is it that you will find in Scott the famous lines?

“Sound, sound the clarion, fill the fife,
To all the sensual world proclaim
One crowded hour of glorious life
Is worth an age without a name.”

Many people, devoted admirers of Scott, might offer an answer to the first question as to who wrote those lines,¹ but would break down at the further question—Where in Scott do you find them? A man of literary taste, judging those lines, would say that they were

¹ This quatrain is now known to form one verse in a poem said to have been written by Major Mordaunt, which appeared in October, 1791, in a “literary weekly” published in Edinburgh, and called the *Bee*, but when these four lines are compared with the rest of the poem the inference that they are by a different hand is strong, and there seems to be the best reason for still holding that Scott wrote them. See Birrell, *More Obiter Dicta*, p. 161.

the conclusion of some fine rolling stanza, that they are the finale of some great orchestral performance. "Marmion"? What do you think? Not at all? Those four lines stand as a mere anonymous extract at the top of the 34th chapter in "Old Mortality." Who else is there in the literature of our common country—if I may so speak for a moment—who would ever have scattered his jewels with so little reserve, so little care, and put them merely to adorn an introduction, like those extracts we read from time to time, which, if you believe Sir Walter, come from an "old play"? I wish with all my heart we had the "old plays" instead of the new plays. In the same way, is it not a matter of sincere pride for us Britons that all his success left him so completely unspoiled? He was not one of those who make themselves ridiculous by elevating every effort of the writer's craft to some impossible pinnacle. You remember how he wrote:

"I am sensible that if there be anything good about my poetry—or my prose either—it is a hurried frankness of composition which pleases soldiers, sailors, and young people of bold and active dispositions."

And so say all of us. Again he wrote:

"I am a bad hand at depicting a hero, properly so-

called, and have an unfortunate propensity for the dubious characters of Borderers . . .

(Let not the Highlanders of this company laugh, for more is coming)

“ . . . the dubious characters of Borderers, buccaneers, Highland robbers, and all others of a Robin Hood description.”

The remark is well known, the entirely charming remark of Thackeray in the “ Roundabout Papers,” that though the heroes of Scott seem a little ashamed of what they are about, blush a little at having to do such heroic things, yet a wise mother would choose such men to be the husbands of her daughters. And to-night, approaching as we are the centenary of the beginning of the cycle of Waverley romances, reaching as we now do a time when, I suppose, there is no man amongst us who can speak at first hand of the mighty dead, or tell us what manner of man was he, how fortunate we are that he should have his lineaments portrayed with such faithful and loving hands by one of the greatest of all biographers.

But for my part, when I seek for a picture of him, I turn to another of your Edinburgh men, and I read in Dr. John Brown’s paper on that marvellous child, Marjorie Fleming, the

description of the three men coming out of your Parliament House in the year 1810. William Erskine, who was afterwards one of your judges, and died in tragedy; William Clerk, who was the Darsie Latimer of "Redgauntlet"; and "the third was the biggest of the three, and though lame, nimble, and all ruddy and alive with power. Had you met him anywhere else, you would have said he was a Liddesdale store farmer, come of gentle blood, 'a stout, blunt carle,' as he says of himself, with the swing and stride and eye of a man of the hills; a large, sunny, outdoor air all about him. On his broad, somewhat stooping shoulders was set that head which, with Shakespeare's and with Bonaparte's, is the best known in all the world."

I call on you to-night to renew your ancient fealty. Let us avow our gratitude for the qualities of freshness and of splendour which all wise men find when they return to the works of Walter Scott. Let us record our admiration for the man whom fame never spoiled, whom misfortune never embittered, whom cynicism never touched—so generous in friendship, so modest in success, so noble in patriotism—of all men, as Lord Byron said, "the most open the most honourable, and the most amiable."

Members and guests of the Walter Scott Club, join with me while we drink, in the silence that befits the presence of the spirit of the dead, to the memory of Sir Walter Scott.

ADDENDUM REFERRED TO ON PAGE 260.

MY DEAR SOUTHEY,—I understand from Lockhart, who is now with me, that the letters of Wolfe are in your hands with a view to publication. This gives me the greatest pleasure, as the Conqueror of Quebec is sure to receive justice from your hands, and I have so much regard for his memory as to be heartily glad of it, tho' I am told he found nothing good in Scotland but the marmalade. I write, nevertheless, to mention to you an anecdote which I heard respecting Wolfe from the very first hand, and which I make you wellcome to if you think the anecdote interesting.

On the night when Wolfe crossed the river with his small army they passed in the men-of-war's long boats and launches, and the General himself in the Admiral's barge. The young midshipman who steered the boat was John Robison, afterwards Professor of Natural Philosophy in the University of Edinburgh, a man of high scientific attainments. I have repeatedly heard the Professor say that during part of the passage Wolfe pulled out of his pocket, and read to officers round (or perhaps repeated) Gray's celebrated *Elegy* in a country Churchyard. I do not know if the recitation was not so well received as he expected, but he said, with a good deal of animation, "I can only say, Gentlemen, that if the choice were mine, I would rather be the author of those verses than win the battle which we are to fight to-morrow morning." It must not be supposed that this was a matter of serious election ; but it was a strong way of expressing his love of literature. I have (heard) Mr. Robison tell the story repeatedly, for his

daughter became the wife of my intimate Friend Lord Erskine, afterwards one of the Scottish Judges by the title of Lord Kinedder, now unhappily no more. I often met his father-in-law at his house, which gave me an opportunity of hearing the story more than once. Lord Erskine Kinedder had a sketch in black lead-pencil from Mr. Robison's pencil of the whole flotilla as it crossed the river Saint Lawrence. I have no doubt it is in the hands of my late friend's family, and that I could get a copy of it for you if you consider it desirable. If you wish to have it let me know, and I will (get) you a copy accurately made.

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If you wish further proceedings about the drawing address to me, Abbotsford, Melrose, for I am here on a visit to my young chief, which will end with the week.

I am always most affectionately and sincerely yours,

WALTER SCOTT.

DRUMLANRIG CASTLE, *September 22* [1830].

XVII

THE AUSTRALIAN CRICKET TEAM, 1926

[Sir Edwin Stockton, the President of the Lancashire Cricket Club, invited a large party to Old Trafford on July 24, 1926, to see the opening of the third Test Match. The Australians won the toss, but unfortunately it rained almost all day, and the play extended to less than two overs. In the evening, at a banquet in honour of the Australian Team, the following speech was made in support of the Toast.]

WE are all so deeply indebted to Sir Edward and Lady Stockton for their generous hospitality that any one of us is anxious to do their bidding, so I rise to support the toast of the Australian Cricketers. I have greatly looked forward to this visit to Old Trafford, for forty-five years ago, when I was a small boy of eight, there was hardly any holiday afternoon when the Lancashire team was playing at home that my father did not bring me to see the cricket. We sat in the "sixpenny" stand—for that was before the Directors had caused the franc to depreciate by putting up the charge. Those were the days when the Lancashire eleven was

the champion among English Counties—the great days of Hornby, Barlow, A. G. Steel, Vernon Royle, Pilling, Watson and Nash. I could still, I think, pass a stiff examination in the Old Trafford records of 1881 and 1882. It used to be a boast of Macaulay—I mean the historian, not the Yorkshire professional—that if all the copies of Milton's "Paradise Lost" were destroyed, he would be able to reproduce the text from memory. And if, Sir Edward, there is a fire in the Pavilion at Old Trafford, and if there is not enough rain to put the fire out, I hope you will apply to me, in respect of those years, to reproduce "the numbers on the card and the order of going in." There was a great Australian team, too, playing here in 1882. It was the first Australian team that ever defeated England on English soil—in a famous match at the Oval, when we were beaten by seven runs. My memory recalls that team as though it were yesterday—Bannerman, Massey, Murdock, Giffen, Horan, the gigantic Bonnor (of whom it used to be said that if you put him standing in a tub in the middle of the pitch and gave him a cricket ball, he would throw it from that confined position full toss over the ropes); Blackham, the prince of wicket-keepers (who took the ball so cleanly

and returned it to the bowler so rapidly, that it seemed a sort of conjuring trick, and the uninstructed spectator might almost have supposed that the bowler was hurling it against some resilient piece of india-rubber from which it instantly rebounded); and—most famous of all, and as familiar a household word in every cricketing home as W. G. Grace himself—the deadly devastating wizard, F. R. Spofforth.

Those were the days when everyone thought that three days was enough for a first-class match. The present Australian team no doubt whiles away the pause till the rain stops by reading the correspondence in *The Times* on this subject. There are the critics who suggest that the wicket should consist of four stumps, forgetting that while four stumps may be all too few for a Hobbs or a Bardsley, the rest of us who still occasionally try to bat find that three stumps are quite enough, and not infrequently that they are one too many. Then there is the tribe of commentators who want to alter the l.b.w. rule, and there is one Spartan gentleman who says that the l.b.w. rule is all right, but what is needed is a new rule which will make it a criminal offence for batsmen to wear pads. I should like to mention one other suggestion which I owe to my distinguished friend Sir

Josiah Stamp, who—like Oliver Goldsmith—touches nothing that he does not adorn, whether it be the gloomy and intractable subject of coal or the London, Midland and Scottish Railway. He wants to brighten cricket by providing that whenever a bowler succeeds in bowling a maiden over, this should count five runs to the fielding side. Perhaps I ought to explain for the benefit of any ladies present who might not understand the niceties of the game that in cricket parlance “to bowl a maiden over” does not mean to offer any indignity to a member of the weaker sex; it means that the bowler bowls six successive balls of such difficulty and excellence that even Mr. Macartney could not make a single run off them—and surely if any English bowler could do that he deserves to secure five marks.

But I am wandering from my subject, which is to express our pleasure at meeting the Australian eleven this evening. Though only ten balls were bowled to-day, to anyone who understands cricket, they were ten very interesting balls. I might say of them, like the gardener said whom Sir Walter Scott discovered in his library intently studying one of the definitions of Dr. Johnson’s Dictionary, that it was “a vera interesting story, but unco’ short.” But I

do not complain because only ten balls were bowled to-day: my complaint is that these ten balls only gave us the opportunity of seeing the first pair of Australian batsmen. If only each ball had dismissed one batsman, the day's play would have been long enough to show us the whole Australian side; and the vast Manchester crowd—and surely no crowd ever showed a better spirit in face of keen disappointment and wretched weather—would have gone home well content and remember to the end of their lives the most satisfactory day's cricket they had ever seen.

Let me say in conclusion how proud we of the Old Country are to think that this great game—part of the common inheritance of the British people—should have attained its pre-eminent success at the other end of the British Empire. What a game it is, the very name of which is used as the token and standard of fair play. What a splendid thing it is for every Briton and every Australian to reflect, that all over the world there are foreigners learning the idiom of our language who have to be taught that “to play cricket” means to be modest in victory, to be resolute in defeat, to work for your side and not for yourself, to accept the decision of the umpire without delay and

without complaint, to play fair and to keep strictly to the rules.

Of the charm of cricket as a national possession no one has spoken in more touching terms than Sir James Barrie. But perhaps the lines which best express what lies at the root of British sport are those of the poet who appeals to us—

“ To set the Cause above renown,
To love the Game beyond the prize,
To honour, as you strike him down,
The foe who comes with shining eyes,—
To count the life of battle good,
And dear the land that gave you birth,
And dearer yet the brotherhood,
That binds the brave of all the earth.”

This is the real spirit of cricket, and as long as this spirit continues to inspire the contests between Australia and the Old Country, why ! whatever the result of the Test Matches may be, we shall rejoice to welcome such a team as this.

XVIII

THE LITERARY ASSOCIATIONS OF CHESS

[Before the Chess Circle of the Authors' Club, on November 29, 1926.]

FACING this expert company, I feel rather like Mr. Winkle when he was invited to exhibit his skill on skates, and I cannot be too grateful that the Authors' Club does not require me, as the price of my entertainment, to play an exhibition game of chess. It is much safer to talk about it, and there is one aspect of chess very suitable to be considered by a meeting of the Authors' Club—what is the place which chess occupies in literature? How far does the literature of our own tongue recognise the position that this entrancing pastime occupies among the entertainments of mankind?

Considering the antiquity of the game, considering the affection with which it has been regarded by so many remarkable persons, considering the claim commonly put forward by the most insignificant chess player who has

just won a match that real skill in the game is—as in the case of Napoleon—proof of the command of military strategy of the highest order—considering all these things, it is very remarkable how comparatively small is the part which chess appears to take in the literature of our country. I am not talking about the large collection of books devoted to expounding the game—"books," as Charles Lamb said, "which are no books"—but am rather considering how far the imaginative writers in prose or verse have found this occupation a suitable topic to introduce into their delightful works.

Shakespeare, of course, did introduce it. Indeed, the stage direction in "The Tempest," where the scene opens with Miranda and Ferdinand engaged in a game of chess, is one of the very few Shakespearean stage directions that are not immediately and vitally connected with the action, though it explains the conversation which follows.

I doubt whether Shakespeare understood chess. At any rate, it is very unusual for two players in the course of their first encounter to address each other thus :

Mir.—Sweet Lord, you play me false.

Fer.—No, my dearest dear, I would not for the world.

Now if Bacon played chess, and Shakespeare

didn't, what light would this throw on the Baconian controversy ?

But it is rather remarkable that, on the whole, literature contains so few references to the game of chess. Of course, there is the famous instance with which the name of Lewis Carroll will ever be associated, although I have never been able to understand the moves in that particular game. But what opportunities have been missed by others ! What a pity it is that one of our literary gentlemen has not made the game of chess as prominent in his romances as Surtees made the pastime of fox-hunting. Why is there no lyric which runs :

O mystic chess, half instinct and half grind !
And all a pleasure and a wild surprise.

Why is it that no sonnet-writer has described his feelings on a particular occasion by confessing :

Then felt I like some critic of the game
When a new gambit swims into his ken.

Then what a sad failure to make use of the proper opportunity is exhibited by the more emotional of our journalists. What could the *Church Times* do with the head-lines, "Persistent Attack upon a Black Bishop." What loyal fervour could the *Morning Post* work up by describing the "gracious act of her Majesty the

Queen in defending an isolated pawn." What a reputation might be made by the author of a new scenario for the film if the title was "A Knight's Suicide," featuring Charlie—Muzio!

Yes, it is certainly remarkable that chess does not take a bigger place in literature, because it is a great game. It has associated with it as continuous and as remarkable a series of examples of a particular kind of skill as any game one can pick. Think of the Syracusan, Paulo Boi, who exhibited such accomplishment in chess that, finding no worthy opponent in his own country, he made a lengthy tour throughout Christendom, encountered and defeated the great Ruy Lopez himself, and was patronised and rewarded for his prowess by King Sebastian of Portugal and by Catharine de Medici.

Think of that marvellous boy, the Chatterton of chess, Paul Morphy, of New Orleans, who from the age of ten showed amazing aptitude in the game, and won a first prize in a major tournament at New York at the age of twenty-one. He came to Europe seventy years ago, defeated the strongest players in London and Paris, returned to his own country, abandoned chess for the profession of advocacy in the law courts, was never heard of in his new occupa-

tion, and after only partially recovering from an attack of insanity, died miserably at the age of forty-seven. What a warning to us all to stick to the job we do best !

But although chess is a most exhilarating and amusing occupation, there is a sense in which it is not a game at all. Mr. Bonar Law—who always managed to find time to play a game of chess, without in the least failing in the discharge of his full duty to the State—was accustomed to describe chess as “a cold bath for the mind”—which, in these degenerate days, is a very useful stimulant. What is the relation between strategy and tactics in chess? What are the qualities of mind and temperament most necessary for the game? For the game of advocacy one wants a good digestion, a good temper, and a good clerk; and of these three the greatest is the good clerk. But in chess playing I have a suspicion that there is more of psychological influence than some people suppose.

There are people who beat you before the game begins by the confident way in which they arrange the pieces, by the authority with which they make a move, almost by the way they look out of the window or drum their fingers while they are waiting for you to play.

In nearly all games there is always an element of judgment and an element of execution. The game in which those two elements are most equally balanced, perhaps, is the game of croquet. But chess has the very odd quality that the executive element consists in nothing more than picking up a little wooden image and moving it, consistently with the rules of the game, to some other square. Chess, therefore, is a game in which the element of judgment is the overwhelming element from the first moment to the last. Though in chess, too, there is an element of luck. I mean that, for all but the greatest masters, the strength or weakness of our combination is not fully planned or appreciated in advance, and sometimes is much better (or worse) than we intended or expected. But there is no rule of chess that the winner must confess that he builded better than he knew.

XIX

PARLIAMENTARY GOLF

[At the dinner on February 22, 1927, given by Parliamentary golfers to Sir Stanley Jackson on his appointment as Governor of Bengal.]

WE have invited the Governor Designate of Bengal to dine with us this evening in order that we may express to him, before he leaves these shores, our congratulations and good wishes on his appointment, our regret that he should be withdrawing from the Honourable Society of Parliamentary Golfers, and our admiration for the way in which he has always played the game. British sport of many kinds, including the glorious game of cricket, makes irresistible appeal to the peoples of India and is a real bond of Empire, for the interest in it is not confined to any one class or race or colour; and we may be sure that when Colonel Jackson reaches the Presidency he will be welcomed not only for his experience in public affairs and his administrative capacity, but because his name is familiar as a household word wherever supreme athletic achievements

are remembered. To-night we celebrate him as a golfer, and the good people of Calcutta (who are most of them Scotsmen) will lose no time in taking their new Governor to the links at Tollygunge. I had pointed out to me there the exact spot on the eighteenth green where a devoted aide-de-camp broke the back of a cobra with a niblick while the Viceroy was holing out—a test of nerve which would require a Stanley Jackson to keep his eye on the ball. But at any rate the greens at Tollygunge are made of grass, which is unusual in India, for most of them elsewhere are made of mud, and the greenkeeper is often a gaunt individual, very scantily clothed, who spends his time squatting on his heels as though he were perpetually considering the line of a putt, and whose tools consist not of a mowing machine and a worm eradicator, but of a watering pot and a plasterer's trowel. The caddies, who always work in pairs, are small boys or girls of incredible fleetness of foot, whose enthusiastic approval whenever you hit a moderate drive is in refreshing contrast with the withering contempt or the tolerant superiority of the acolytes of an English golf course. We look forward with great confidence to the news that the new Governor, in the intervals of official

duty, has set up a new record on every golf course within his Presidency.

And now, Colonel Jackson, let me reveal to you the secret thoughts of your golfing friends here, as they sit round this table, now that you are leaving them for India. The optimists amongst us are all privately resolving to lose no time in winning the Parliamentary Golf Handicap in your absence. The pessimists amongst us are afraid that the Parliamentary Golf Team will never win a match again, and that the head-line "HOUSE OF COMMONS TEAM BEATEN" will be kept in standing type by all the Sunday newspapers for five years and repeated with distressing monotony. But in your absence we shall not fail to remind our opponents of the consistency and the brilliance of your own achievements. Style in the playing of a game is, I suppose, the grace of easily doing perfectly what others do badly with difficulty, and nobody who has seen our guest on a cricket ground or a golf course will ever doubt that he is one of the supreme stylists of British sport. How comforting it is to remember that he took up golf only comparatively late in life! How depressing it is to reflect that within twelve months he had reduced his handicap to scratch!

We rejoice exceedingly that His Majesty should have called upon you to undertake the most responsible and difficult task which you are going to discharge in the premier Governorship of India, and those of us who have had the pleasure of being your colleague and companion here, at work and at play, are confident that you will acquit yourself well. I will not go so far as to assert that no good golfer could ever be a bad man, but the temperament of a great golfer necessarily includes many of those qualities needed in the public service. To respect your opponent when you are up on him, to be resourceful when things go badly, to keep your temper, to put back the turf, and never to improve your lie—these things are not only the rules of golf: they are the rules of public life.

I remember well that when Alfred Lyttelton died—another All England Cricketer who became a first-rate golfer—and the time came for some Parliamentary tribute to be paid to his memory, how difficult it seemed to be to appraise in a single sentence the qualities of that delightful personality. But I heard it done, in a phrase I shall never forget, by the greatest master in this age (and perhaps of all time) in this style of speech. When Mr. Asquith was

Prime Minister he said of Alfred Lyttelton :
“ His, Mr. Speaker, was a character which every wise father would wish his son to admire, if not to emulate.” That was truly and finely said, and while there are few of us who can hope to emulate the brilliant ease with which our guest wields a bat or swings a club, our admiration is not limited to his athletic achievements but extends to a regard for qualities of heart and mind which have made us all value his personal acquaintance. We wish him well in his new sphere of action. It may be that he leaves the Conservative Party at the moment of its impending dissolution—fleeing from the wrath to come and the fate which will overtake it at the hands of a United Liberal Party. But he is undertaking a very serious duty at a time which is critical in the history of India on behalf of us all, and we hope it may be a pleasure and a support to him to feel that he goes to his work with the united goodwill of all Parliamentary golfers.

XX

THE PROFESSION OF ACCOUNTANCY

[The following speech was delivered at the Annual Dinner of the Chartered Accountant Students Society of London, at the Connaught Rooms, on December 8, 1920, when the speaker was the chief guest of the evening.]

I **MAY** fairly claim that this is the toast of the evening ; for it is the toast of the Society which is the occasion of our meeting to-night. So much has been said already about the character of the profession of accountancy that it is a little difficult to avoid touching on topics which have already been treated. This great profession attends mankind from the cradle to the grave. It guides the schoolboy who, in a desperate attempt to explain a deficit in his petty cash, is moved to deceive his fond parents by the entry, "S.P.G., 6d.," but is ultimately forced to explain that "S.P.G." merely means, "Sundries, Probably Grub." It consoles the harassed taxpayer in resisting the exactions of a harsh and unrighteous Treasury, when dealing with unpleasant buff-coloured forms, until the great profession of

accountancy almost succeeds in making even the income-tax intelligible. Not only so, but it attends, on the invitation of our executors, as we pass away from this mortal scene—in order that we may render our last strict account in another place to Rhadamanthus, who, in my imagination, presents a countenance, genial, benignant, but exacting, very much after the appearance of Sir William Plender—for our dying hope is that we may appear with all our original vouchers “examined, certified and found correct.”

One of the features of the great profession of accountancy which has always filled me with interest and surprise is the calmness with which it deals with every situation that arises. It intervenes with equal authority and complete equanimity alike in prosperity and in adversity. It calculates super-tax without envy ; it winds up a bankrupt's estate without remorse. And it is a profession which is continually extending the bounds of its usefulness. It is not so long ago that on the occasion of the annual audit at an Oxford college there was a destructive fire in the kitchen of that institution, which, on investigation, was believed to be due to the circumstance that the Warden and Fellows, with suitable professional

aid, were busily engaged in cooking the accounts.

How far back does this cool, remorseless investigation of our financial affairs extend? I do not recollect any reference to Chartered Accountants in the Bible, unless you include the unfortunate experience of Pharaoh's baker, whose stocktaking was so unfairly interfered with by the birds of the air, or the reprehensible but very explicable action of the unjust steward, who, when he could not get his sum to add up rightly, cut the knot by urging his master's debtor to "sit down quickly and write fifty." But those gentlemen existed long before the days when the high standards which now prevail with the professional accountant were part of the burden which had to be borne by frail humanity. I was reading the other day an old and very interesting historical book, Fuller's "Church History," and I saw in the chapter which gives an account of the administration of abbeys in this country before the abolition of the monasteries an illuminating passage. Old Fuller writes, with reference to the administration of various charities by the Dean and Chapter of St. Paul's, "However, we may take notice that herein the Dean and Chapter of St. Paul's were both their own accountants and

their own auditors, and, consequently, none can dispute their reckonings therein." Then says he, "It is to be noted that in this their duty they only brought in their bare annual rent of houses, the fines not being charged to their account, but swallowed in silence, to the great commodity of the Dean and Chapter." That was long before the Chartered Accountant Students Society of London had got their eye on the proceedings of every public body. To come to comparatively modern times, there was once a Chancellor of the Exchequer who presided over our finances with dignity and success, but who was constrained to inquire of the Permanent Under-Secretary what was the meaning of decimal points and to declare that while he understood the whole of the national finance, he wanted to know what was the meaning of "those damned dots." But that was long, long ago ; for that was in an age when a Chancellor resigned in the interests of economy.

If we may presume to look into the future, there is, I dare say, even to-day, still room for improvement, from the point of view of the professional accountant, in the methods adopted in the statement of our national balance sheet. Some day, perhaps, we shall in these national accounts distinguish between capital and in-

come. The day may dawn when we shall cease to regard the Disposals Board as a vastly profitable revenue department merely on the ground that it sells off, second-hand at reduced prices, accumulations of stores for which another Government department had only paid with borrowed money. This will be one of the tasks which perchance may fall to the present members of the Students Society here assembled.

I should like in a few serious words to recall to your minds a fact insisted upon in every speech to-night, that the occupation of accountancy claims, and is entitled to claim, to be a great profession, and when I say that it is a "profession," I do not solely mean that it is one of those occupations which escapes, under Section 39 of the Finance Act (No. 2), 1915, the inconvenience of accounting to the Special Commissioners for Excess Profits Duty. It would ill become me, in an assembly actuated by the strictest professional standards, to offer a legal opinion without being paid for it—but I have sometimes been asked, in return for a reasonable consideration, to explain to anxious inquirers what precisely is meant by a profession that escapes that pernicious impost. I shall not attempt a definition, but I would suggest to you here three tests. First of all, a

profession essentially involves this—that its practice is based on preliminary study, training, and it may be, examination on the general principles of the pursuit. In the second place, a profession, I venture to think, essentially involves this, that the profits which may be made from its pursuit do not primarily depend upon the command of great quantities of capital. And thirdly, and most important of all, a profession is a pursuit which is followed not solely as a livelihood but always subject to overriding duties, prescribed by a code of professional honour involving in an especial degree the strict observance of confidences, in which the work that we do must be rendered to our clients without stint in proportion to our client's need rather than in proportion to the reward which we receive. Those are three tests by which the great acknowledged professions of our time may fairly be judged, and it is because, from such an experience as I have had of the profession of accountancy, I am well assured that it satisfies those three tests, that it is so genuine a pleasure to propose the toast entrusted to me to-night.

I suppose there are here many men who are just on the threshold of their professional careers. Most of them probably have post-

poned their immediate personal advantage in order to do their duty on behalf of the country during the years through which we have just passed. Some of those comrades and colleagues who shared that dread adventure with you will never return, but to those of you who are destined to inherit a great tradition and to carry it forward, I would venture to say that success in all the great professions depends essentially on qualities which are at the command of character. Apart from convenient physical attributes, success in any great profession, I make bold to say, depends upon one's realising that here is a career that is open to talent, that talent for practical purposes depends far more on individual energy and unswerving rectitude than upon any exceptional accomplishment of mind, and that as long as a man has good courage and a stout heart, is really imbued with the feeling that he is determined to do his duty whatever may befall him, he may count with confidence, whatever be the measure of his personal success, upon earning an honoured place in the ranks of those whom he has joined.

XXI

IRRIGATION IN INDIA THE LLOYD DAM AND THE SUKKUR BARRAGE ¹

WITHIN three months of his setting foot in India as Viceroy (now nearly thirty years ago), the wide and methodical sweep of Lord Curzon's preliminary scrutiny had already marked down "twelve important questions" to which, he said, "as soon as I have the time, I mean to address myself." He did not, at that moment, announce what they were, but events proved that one of them was an All-India survey of the needs and possibilities of further Irrigation Schemes. The Commission of experts which he appointed ranged over the Indian continent and patiently marked down the best sources to be tapped and the parched areas to be supplied. The inquiry occupied nearly two years of detailed investigation, and the adoption of its resulting recommendations was found to involve a programme of construction which would take

¹ This paper has not been published before.

twenty years at least to carry out, and was calculated to call for a capital expenditure of thirty million pounds.

Lord Zetland has told us that the Viceroy declared the Report of the Irrigation Commission to be "infinitely more interesting than a novel," for it dealt, not with the hypothetical problems of human character, but with "the positive agencies that affect the growth or decline of human life; and it bases conclusions dramatic in their sweep upon premises of scientific precision." Certainly, anyone who has seen something of the vast arid wastes of unwatered India, and has witnessed or imagined the appalling consequences of drought and famine spreading through the country-side, while afar off some immense river carries its useless stream to the sea, must be profoundly moved by the thought that British leadership has organised the means to spread so much benefit and lessen so much misery. Let us consider two striking examples, both within the boundaries of the Presidency of Bombay, the one just completed and the other far advanced in the course of actual construction.

Thirty miles south of Poona, on the eastern side of the steep ridge of the Western Ghats, two rivers of the Deccan used to converge,

swollen for four months of the monsoon with tropical rains, and practically dry for the remainder of the year. The heaviest rainfall—sometimes no less than 250 inches—occurs on the peak of the Ghat ridge, and unless the spate is conserved it runs violently to waste just at the season when artificial irrigation is not needed. But across the valley has now been piled up $21\frac{1}{2}$ million cubic feet of masonry, 124 feet wide at the base, 190 feet high in parts, and over a mile long—in actual volume of material the largest dam in the world. Looking up at this barrier from below, one feels like a pygmy craning one's neck to survey the battlements of a fortress of giants. On the upper side, the impounded water forms a lake which is two and a half times the size of Windermere. If the water it contains were spread out to cover one yard's depth all over, a larger area would be submerged than the whole of the Isle of Man. From the sluices of the Dam the water is let down through the channel of the Nira River to supply two artificial canals, each a hundred miles long, from which offshoots divide and subdivide, till an area of more than 800,000 acres, hitherto haunted with the spectre of famine, is protected from drought and rendered capable of producing assured crops of

sugar-cane, cotton, and grain. The whole design and construction have been carried through by the Public Works Department, with local labour, without contractors and without advertisement, in the course of some fifteen years, as funds were available, at a cost of £1½ millions for the Dam alone and £4½ millions for the whole scheme of the Dam and the canals. On a broiling Saturday afternoon, in October, 1928, the opening ceremony was performed, on his last visit to the Deccan, by Bombay's immensely popular Governor, Sir Leslie Wilson. A select company was present, including a couple of ruling Chiefs, a dozen local legislators, some half-dozen reporters and a few photographers. The engineer who had designed and watched over the whole got his C.I.E. His work will live after him. A sense of duty (to quote Curzon again) is the cement of government. In this area, at least, the terrible visitation of the famine of 1899-1902 is now only a memory of the past.

Widely different in construction and method of operation, but equally remarkable in design and beneficent in purpose, is a yet bigger irrigation project, which also bears the name of the former Governor, now Lord Lloyd—the Sukkur Barrage in Sind. The Indus wanders, over a

mile wide, by ever shifting channels, through the Sind desert to the Arabian Sea, but just above the point where the Barrage is being placed, it has always passed through a gorge of rock. Here, then, is the place for regulating its flow. The average annual rainfall of Sind is only $5\frac{1}{2}$ inches, most of it provided by a few heavy showers in July and August. Hence, apart from some grass for grazing cattle, Sind crops essentially depend on irrigation ; and the Sind cultivator, with his Persian-wheel made by the village carpenter, worked by a pair of blindfolded oxen (blindfolded because otherwise the endless circling would make them giddy—or is it that they may not notice that their master is asleep under the shade of a date-palm ?) has used the river-water for his fields ever since Alexander passed that way—and before. Moreover, the Indus, like the Nile, flows in its lower courses through a delta of its own creation, the level of which is slowly rising, so that one may almost say that the river is at the top of a hill. Cut through the containing wall, therefore, and gravity will lead the water to lower ground of rich silt.

Thus the object of the Sukkur Barrage is not to impound water so much as to regulate and distribute its flow, through huge outlets of

masonry on either side, to a network of distributing canals. The floor below the sluices, and the piers between which they will slide, can be constructed only by first driving into the bed of the river thousands of interlocking piles to make an enormous square box, out of which the water can be pumped and a section of the building completed before spring floods suspend river-work for the season. Two years ago the impervious wall of piles, for all its backing of sand, suddenly threatened to give way under the rush of waters, and the story of that battle of engineering skill against elemental nature reminds one of Kipling's "Bridge Builders." When all has been done—the estimated year of completion is 1932—the area to be irrigated will be larger than the whole of the arable land of England and Wales. And here again the carrying-out of the work is in the hands of the Public Works Department itself. It has gathered together thousands of labourers, Punjabis and Sindhis, Moslems and caste-Hindus and members of the depressed classes, and taught them, in the course of years, every skilled trade that goes to make the whole. It is curious to think, for example, that the village blacksmith will go back to his country forge, after working machine tools in the Sukkur shops or helping

in the marvels of electric welding. If Socialism means the elimination of the profit-making contractor, then certainly this is one of the most far-reaching examples of the application of that principle in the world.

Figures convey little of the sense of size conveyed by actual inspection, and yet figures cannot be wholly omitted. The total cost of the project will be over £15 millions. It will provide for the annual cultivation of nearly six millions of acres—an area which is larger by 500,000 acres than the whole of the cultivated area of Egypt. Of the seven canals fed by means of the Barrage, three are half as wide again as the Suez Canal, and one is even broader than the Panama Canal. Before the water can reach all the fields it will serve, 60,000 miles of distributing channels must be constructed, for the cultivation of wheat and rice and cotton where little or nothing would grow before.

But the ultimate triumph of such a work does not depend merely upon skill and forethought in engineering construction. It depends upon subsequent administration. It will take thirty years at least before the estimated revenue resulting from reassessment of farms and collection of water-rent, together with sales of Crown

land, can prove the financial soundness of the whole scheme. Water in a thirsty land is a terrible temptation. Upon its strict and impartial distribution, by an army of subordinate officials, hangs the issue of success or failure.

I am reminded of a story told to me by a former Commissioner of Agra as he took me out on the road to Fatehpur Sikri. We crossed a culvert spanning a water-channel. There, he said, he had spoken to an Indian landowner who was standing silently surveying the stream. "It is good to see the water," said my friend. The zemindar turned to face him. "Do you call it water?" he said. "It is not water—it is gold."

XXII

A VILLAGE PANCHAYAT¹

AT the village of Dilawar Chima in the Punjab, close to the head works of the Chenab Canal (which takes in from the broad and shallow river of that name a steady flow of water amounting to 11,000 cubic feet a second—enough to irrigate an area of $2\frac{1}{2}$ million acres) the village council was in session for the hearing and decision of a dispute between two villagers. Nazar Mohammad was the Sarpanch, or Chairman—himself an important zemindar owning one-tenth of the land in the village area—and with him sat four others, one a Sikh and the three others, like the chairman, Moslems. They had been constituted members of the village panchayat by a show of hands at a village meeting, and were carrying out under a recent statute of the Punjab Legislative Council the traditional functions of the elders of the village. A crowd of white-turbaned onlookers sat silently under the banyan tree watching the

¹ This paper has not been published before.

proceedings, while the heads of half a dozen purdah ladies who were standing on an adjoining roof peeped at intervals over the top of a mud wall. The complainant was an old and wrinkled woman, the widow of the village cobbler. She was engaged in her prayers when the court began, and came forward composedly, when her devotions were over, holding her dark-red garment over her head with a skinny hand. Her husband at their marriage had given her two silver bangles and a necklace, and these were her only possessions when he died. Her complaint was that her neighbour, a Moham-medan tenant-farmer, had induced her to lend him one of the bangles and the necklace in order that he might pledge them with the Hindu moneylender of the village and borrow 35 rupees (at 24 per cent. interest), with which he wished to buy a water-buffalo for working the Persian-wheel which raised water from his well for irrigating his crops. The defendant was called on to come forward out of the crowd. His appearance was not improved by a gash through his upper lip which exposed a tooth like a fang. He had promised to repay his loan and return the jewellery to the woman, but had failed to keep his word; hence the claim before the panchayat court. The chairman addressed a

few questions to the unprepossessing defendant, and he confessed that the woman's story was true. The plot he farmed was not more than a dozen acres in extent ; he had only one pair of bullocks and a plough ; his wheat would be ripening and ready for cutting next month ; and then he would be able to find the money. The Lord Chief Justice of the village delivered the judgment of himself and his brethren. The defendant was to be given time to keep his promise until next July. By then he must either redeem and return the poor lady's jewellery, or pay her 45 rupees. The decree was duly noted down in the panchayat's book, and the Court adjourned to give the Royal Commission tea at the house of the dignified Sarpanch. The defendant, a melancholy and isolated figure, moved moodily off. The lady's protest that she wanted amends now, and did not see why she should wait longer, was politely brushed aside by our host. . . . It is thus that the village of Dilawar Chima gets disputes to the maximum value of 50 rupees, or petty offences not amounting to assault, disposed of to the general satisfaction of the public, without the law's delays or the intervention of advocates.

XXIII

THE SCENE AT AMIENS (MARCH, 1918)

[The following article appeared in *Blackwood's Magazine* for December, 1918.]

ON the Wednesday in Holy Week my duty took me morning and evening along and across the valley of the Somme and through the city of Amiens. The Germans had swept past Bapaume and Peronne, and were as far forward as Albert and Bray, less than twenty miles from Amiens itself ; but rumour was travelling faster than the enemy, and had already invaded in force the meaner quarters of the great town and the villages farther east, driving the poor before it. Bombs dropped the previous night in large numbers had convinced even the waverers that safety was best sought in the country-side to the west ; and as the staff-car approached the city from that side, it met an ever increasing multitude of refugees trudging miserably along in little groups, with their backs turned on their homes.

The majority of the crowd were women—the

younger amongst them wearing their best clothes as the easiest way of carrying them. Facing the morning breeze, and with the sun behind them, many had started confident and almost cheerful in spite of bundles or satchels crammed with so much of their possessions as they hoped to be able to transport. Most of them had overestimated their powers: some were already staggering under the load. Here was a solitary crone, grey-haired and limping, with battered and bulging portmanteau in one hand, and a reticule containing a pair of boots, a kettle, and a parcel from which a piece of dust-covered bread protruded, in the other. Here was a young widow, dressed in the ugly livery of her condition, pushing before her a perambulator in which her baby was almost smothered by utensils and knick-knacks, snatched up from the dwelling where husband and wife and child had been happy together until the curse of war fell upon them. He lies in an unnamed grave before Verdun; she was walking aimlessly on; the child was beating a little drum.

Then the old men! These, too, for the most part, dressed in black and absurdly overburdened. A surprisingly large proportion of them had found a wheelbarrow on which to

load their household goods. A mattress, a strip of carpet, an untidy bundle of clothes, pots and pans tied together with string, and parcels innumerable, made up the usual luggage. Nearly everyone seemed to have a dog. Very often a cow followed, tugged along by a rope round her horns. Every few minutes one of the men with a wheelbarrow stopped, sat to rest on one handle while his wife sat on the other, then readjusted the strap over his shoulders and started pushing again. One very old man I saw whose barrow, as he wheeled it, served as arm-chair for his invalid wife; she sat there comfortably enough, hands folded in her lap and feet dangling, looking up at him as he toiled along with the wistful, patient gaze of the infirm, who must rely on another's strength and kindness. What was she thinking of, I wonder? How often had that old couple moved house together—how many years had she trusted him to lift her? And at last her musings had come to this—How could the vigorous husband of her youth, now that he was so enfeebled and broken, find the force to move them both? As his body swayed she caught a glimpse, behind his shoulder, of the frail spire of the cathedral crowning the black mass of its nave. What a little way they had come, and with how much

exertion ! But as they had nowhere to go, perhaps it did not matter much. There was desperation and gloom in his unshaven face, but the poor old wife kept gazing peaceably at him as they trundled slowly by.

At intervals a more substantial equipage came down the road—sometimes a huge farm wagon drawn by three or four horses, with cattle following, and the whole contents of the house stacked within. The old grandmother and the children could be seen perched insecurely on top of the pile, the rest were walking. Sometimes it was an overloaded pony-chaise, or a baker's cart, or even a small motor-car. But as one looked down the slope of the road, it was obvious that these cases of comfortable travel were rare ; the mass of the stream was made up of wretched poverty on foot, utterly hopeless and homeless.

Inside the town of Amiens every shop was shuttered. No trams were running ; no cafés were open. It would have seemed a city of the dead were it not for some household still delayed in its departure, or some slinking, sinister figure waiting perhaps for nightfall to begin marauding. Everyone, in and out of the town, seemed intent on his own problem. No one was conversing.

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Returning in the late afternoon along the same road, I was struck by the difference which the lapse of a few hours had made in these pilgrims—any gaiety they ever had amongst them had disappeared. The March wind had opposed them all day ; it was turning colder, and after sundown there would be frost. Many had already realised that they could find no roof to shelter them that night, and in every hollow little parties were camping as best they could on the ground. Some were sitting at the road-side in the dull torpor of misery, staring at the load they now found too heavy to lift. Under a hedge a mother was baring her breast to give her infant its last meal. Two old women were frenziedly trying to repair a barrow that had pitched their odds and ends into the road. The singing of a drunken wanton frightened a boy of six, and he buried his face in his mother's dusty skirt till the woman slapped him and dragged him on. Some of the very people whom I had met in the morning I overtook at dusk—they seemed to have covered little ground. Others, doubtless, had reached their friends or found shelter.

There were British troops on the road—tramping back in twos and threes to rest-billets, and tired enough themselves. But all

along the road, and every few yards along it, you saw a soldier wheeling some woman's barrow or perambulator, or carrying a child on his shoulder. Heavy motor-lorries, marked "W.D.," and each bearing the emblem of its unit, came rolling by, and out of the hood behind peered in the gathering darkness a cluster of tired faces, young and old. Farther on, a field artillery column was moving slowly west. Whether army regulations permit old women to ride on limbered wagons I know not—but there they were.

"This is a bad business," said I to my driver.

"What if it were in our country, sir?" he replied.

We stopped our car now and again. "There are three places, madam, or perhaps four, if there are children." I had seen little sign of any group of these people helping another group, but when a middle-aged woman, who seemed to be leading another, was invited, she accepted for her sister who was blind, but said that if we would wait there was a blind man with two children not far behind, and she would continue to walk if we would take them too. So the two blind and the two children clambered in, and were left in the appointed

meeting-place in the village five miles on. It then appeared that the two blind people did not know one another. A New Zealander came to the rescue, and promised to stand by them until their friends on foot arrived. So we left them surrounded by their bundles. "How long did it take sir, this *course*?" asked the blind girl. "About ten minutes." She gave a little gasp of pleasure, and you could see that she felt she now had one experience of life that even her sister, who could see, might envy.

When the car turned at the bend of the road and mounted from the river valley, the groups of refugees had all been left behind. Many, many were crouching in the undergrowth of the woods behind us, vainly trying to keep warm in spite of the bitter wind. The very young and the very old could hardly survive such a night; all alike were innocent of any part or lot in the crime from which they were suffering. The moon, shining full above the distant cathedral, can seldom have looked down on such an accumulation of misery.

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That night the Kaiser telegraphed to his Empress: "My troops continued their glorious advance, driving the enemy before them. God is with us."

XXIV

LORD CURZON

[House of Commons, March 23, 1925.]

MR. SPEAKER,—It falls to me to express, in quite a few sentences, on behalf of the Liberals of the House, our desire to be associated in the fullest measure with the tributes which have just been paid to this most accomplished and remarkable man. Occasions like these which occur from time to time as great figures pass away are always trying and difficult, very difficult for anybody who is called upon to say anything in the course of our proceedings. The object of all of us is not to indulge in indiscriminate praise, but to select for memory and admiration high and noble qualities which really mark out the particular individual whose loss we deplore. I speak for the House as a whole when I say that we feel that that duty has been very admirably discharged by both the Leader of the House¹ and the Leader of the Opposition.²

¹ Mr. Stanley Baldwin.

² Mr. Ramsay MacDonald.

Without attempting at all to rival them or to go over the ground again, let me select two qualities which I have again and again had good reason to mark in the character of Lord Curzon—two qualities which, I think, specially distinguished him, and two qualities which it is well for Members of Parliament to dwell upon and to admire. First, I would put the unremitting and devoted diligence with which he prepared himself for and carried through every task which he undertook. He was a man of the most unusual accomplishments, and he was not likely to be abashed or found wanting because he had to act without full preparation of speech or argument, and yet I doubt if there has been a man in our generation who has more constantly thought it his duty to prepare himself fully for every public task. In a phrase which is very often misquoted, Thomas Carlyle, in his life of Frederick, declares that—

“Genius is a transcendent capacity for taking trouble first of all.”

And certainly, of all the great public figures of our time, and I should think—if we were to include them—even of past ages, Lord Curzon stands very high, if you apply that test to his public performances. I recall an incident which, perhaps, is the more striking because the

circumstances were not in themselves very important. It occurred during the first Coalition Government. Lord Curzon was good enough to undertake the duty of representing the Home Office in the House of Lords, and on three or four occasions when I was Home Secretary matters arose in another place which called for an answer from the Departmental point of view. I shall always preserve, with the most unfailing admiration and respect, a memory of the way in which Lord Curzon, who had much greater matters of real importance to attend to at the time, not only was willing to put himself at the service of the Department, to learn up it might be some quite small and unimportant details, but insisted upon being fully and completely informed of every aspect of the controversy with which he might be called upon to deal. I do not suppose that Lord Curzon ever scamped a piece of public work. Whether as Chancellor of an ancient University, whether as trustee of the artistic and architectural possessions of the nation, or whether in the varied field of his political activities, he showed from first to last a thoroughness which would have satisfied Mr. Gladstone himself.

The second quality, the only other that I will delay the House to refer to, is one which the

Leader of the Opposition has already touched upon in a phrase. It is that quality which justifies acute controversy between honest men ; I am rather disposed to say that it is that quality which alone makes public life tolerable. It is the exercise of public spirit ; of a determination to contribute the best that is in a man to the public service. Those of us who may have had most reason from time to time to differ from Lord Curzon in his policy, and, in some respects, in his outlook, were the very first to acknowledge that in him you had a splendid example of high-minded and disinterested public spirit. From his earliest years, by study, by travel, by writing, by taking every possible opportunity of association with affairs, he had prepared himself for the part he was to play. Neither poor health nor disappointed ambition ever dulled the edge of his resolve to devote the best that was in him to the work of the State. We here in the House of Commons, where he first made his fame and first displayed his remarkable qualities of mind, knowledge and speech—we here to-day not only mourn the passing of a distinguished representative of a great political party, but we deplore a grievous impoverishment to the public service of the country as a whole.

